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THE LEAGUE'S BUSINESS

Baldwin Prize Award.—The committee on award of the annual Baldwin Prize, consisting of George D. Carrington, New York City; J. T. Salter, University of Wisconsin; and Clarence G. Shenton, Philadelphia Bureau of Municipal Research, has granted the first prize to William H. Jewell, University of Chicago. The subject of his essay was "Allocation of a Proper Portion of the Gasoline Tax to the Municipalities." The Baldwin Prize of one hundred dollars has been offered annually for a number of years by the National Municipal League for the best essay on municipal government by a college undergraduate.

Honorable mention for essays on "Private Versus Municipal Ownership and Operation of Airports" was received by John G. Prendergast, Amherst College; and Henry T. Sulcer, University of Chicago.

*

Study on Selection of Judiciary.—For a number of years students of judicial administration have deplored the lack of authoritative facts with reference to the best ways for selecting judges. For a number of years the American Judicature Society has urged the National Municipal League to undertake a study of this kind.

Steps are now being taken to organize a committee on selection of judiciary which will jointly represent the National Municipal League, the American Judicature Society and the Johns Hopkins Institute of Law. The committee is now in process of formation. Dean Justin Miller of the Duke University School of Law has accepted the chairmanship. The Public Affairs Committee of the Union League Club of Chicago has granted permission to Edward M. Martin, its secretary, to act as secretary of the committee and to direct the study on selection of judiciary. A statement of the committee's program and its personnel will be announced in a later issue of this page.

*

Model Municipal Administrative Code in Tentative Form.—A year ago the executive committee of the National Municipal League appointed a committee to prepare a model administrative code. The committee is headed by W. E. Weller of the Rochester Bureau of Municipal Research as chairman, and Emmett L. Bennett, secretary of the Municipal Reference Bureau, University of Cincinnati, as secretary. Mr. Bennett as secretary has now prepared a tentative draft of a model code which is designed to complement the *Model City Charter* by providing the necessary administrative rules and regulations to install the city manager plan. The report in tentative form has now been distributed to the committee for criticism and revision. The committee will meet in November in connection with the National Conference on Government, but its report will probably not be ready for publication for many months.

RUSSELL FORBES, *Secretary.*

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EDITORIAL COMMENT

By recent action of the legislature, Vermont became the forty-eighth state to adopt a zoning enabling act. The bill was passed unanimously in the senate and almost unanimously in the house of representatives.

*

Public officials are human beings, according to Professor Thomas H. Reed in an address to the Detroit Citizens' League. Professor Reed, however, is not so sure about so-called good government leaders. Many failures in civic reform, he contends, are due to the inability of reformers to maintain satisfactory relations with officials after the election is over. Honest and capable public officials should not be left to operate in a vacuum.

*

Municipal expenses reduced \$5.00 per capita in the face of heavy debt charges and increases mandatory on the council is the record of the first seven months of city manager government in Teaneck, New Jersey. Teaneck is the third New Jersey municipality to come under the optional manager plan enacted in 1923. The Taxpayers' League is responsible not only for the adoption of the plan but for the election of an efficient council without partisan connections. The city expects a rapid increase in popula-

tion following the opening of the new Hudson River bridge and believes that its government is now set to accommodate such expansion efficiently and well.

Many readers of the REVIEW will be grieved to learn of the death of Mrs. George H. Burnham, Jr., who for so many years shared the interests of her husband in civic reform generally and in the National Municipal League in particular. Mrs. Burnham was the anonymous donor of the Baldwin prize offered each year by the League for the best undergraduate essay upon some phase of municipal government. Her death marks the passing of another of that generation which brought the National Municipal League into being and charted the course of municipal reform in the United States.

Important California Cities Adopt C.-M. Plan The San Diego city manager charter, which was described by Edwin A. Cottrell in the April issue, was adopted by a popular vote of 23,360 to 5,744. It received a majority in every precinct of the city and goes into effect on January 1, 1932. A mayor and council have been elected under the existing charter favorable to the manager plan and the present manager of operations will probably

be continued as the city manager when the new charter takes effect.

The charter proposed by the board of freeholders of Oakland, California, as an alternative to the council manager amendment adopted last November, was defeated by a large majority. The freeholders' proposal was a compromise between the mayor and manager forms by which the popularly elected mayor would have had considerable appointing power, including the selection of the manager and the assistant manager. By its defeat the voters for a second time expressed their confidence in the standard manager plan. A council sympathetic to it was elected, and O. E. Carr has been called from Fort Worth, Texas, to be the first manager.

*

Detroit's Proposal for an Administrative Assistant to the Mayor

Believing that city government is out of the question for Detroit for the present, the Detroit Bureau of Governmental Research proposes an administrative assistant to the mayor as an alternative to a manager appointed by the council and as a method of eliminating some obvious defects in the present system and accomplishing some of the results anticipated from the manager plan. The administrative assistant would act as the mayor's deputy in administrative matters. To remove the incumbent from the possibilities of political appointment and influence, it is suggested that certain minimum qualifications for the office be set up in the city charter and that the appointment be after a civil service examination and upon certification of names to the mayor. The mayor would have the power of removal at will upon presentation of charges but the successor would be selected from the list of eligibles prepared by the civil service commission.

Detroit has been generally well governed and there is little sentiment for a change from the mayor plan. This being true, the proposal of the Bureau is worthy of serious consideration. If adopted the experiment will undoubtedly be observed closely by officials of other cities, especially those whose constituencies are beginning to agitate for the manager form.

The Bureau's scheme would delegate to the administrative assistant much of the detail which the mayor now handles. Since it is anticipated that the assistant will carry over from term to term, his importance will increase as new mayors, unfamiliar with their duties, come into office. The city would profit from the continuous attention to and improvement of administrative procedure, whereas at present the period between mayoralty elections is so brief that no mayor has much time to consider new administrative methods. The mayor would continue as the policy head of the city government and, relieved of administrative detail (which would undoubtedly be more efficiently handled than at present) he would enjoy a better opportunity for developing into a forceful civic influence than at present.

The Detroit Bureau makes its proposal of an administrative assistant not as a substitute for a city manager but to ameliorate certain defects in the present charter. It is virtually, however, a type of office new to American experience. Inasmuch as our cities are supposed to be laboratories of democracy, it is to be hoped that Detroit will give the experiment a trial.

*

Cleveland's Municipal Light Plant—Success or Failure? In June the REVIEW published an article by R. Husselman, charging that the development and expansion of the Cleveland Municipal

Light Plant had been deliberately retarded by a city manager and a director of public utilities opposed to municipal ownership. In July appeared an article by Howell Wright, the director of public utilities referred to by Mr. Husselman, which, although not mentioning Mr. Husselman's charges, was virtually a reply to them. The careful reader may be forgiven a moment's mental confusion when he discovers that Mr. Husselman unintentionally builds up an almost conclusive defense for Mr. Wright's management, while Mr. Wright's rejoinder supports the charges of his opponent.

That City Manager Hopkins and Director Wright are and have been antagonists of the doctrine of public ownership of utilities is a well known fact (they have not tried to conceal it); but Mr. Husselman's article leaves one still to be convinced that their management of the city's electric light plant was unwise or disloyal. Certainly the case for political sabotage remains far from proven.

Mr. Husselman claims that the enterprise has been financially successful although its residential rates are the lowest in the country for cities of similar size. For 1929 the net income, he states, amounted to \$547,000 after allowance for all operating expenses, maintenance, depreciation, interest on electric bonds outstanding, and accrued taxes (not paid). The physical condition of the plant, he asserts, is good and the service is continuous and reliable. So, indeed, one may ask, where or how sabotage?

But Mr. Wright contends that this apparent profit is in reality a deficit, and would be so shown on the books if the accounts were kept according to his understanding of the Cleveland charter. Contrary to Mr. Wright's interpretation of the law, the city has allowed for interest only the actual

interest costs on outstanding bonds and has not set up on its books an interest charge on the entire investment. Here is raised the question whether in computing profit or loss a theoretical charge upon the gross investment should be used (as Mr. Wright insists) or only the actual interest on bonds outstanding.

There seems to be no dispute that during Mr. Wright's term of office the municipal plant has provided regularly for operating expenses, maintenance, depreciation, tax accruals, actual interest on bonds outstanding and amortization of bonds as required by law. The net profit appears, therefore, to be properly figured by Mr. Husselman. When earnings have been used for amortization of bonds, provided that maintenance and depreciation have been adequate, there appears to be no economic or financial reason for estimating interest upon any greater amount than the funded debt outstanding.

We doubt the validity of Mr. Wright's view that section 77 of the Cleveland charter requires that a hypothetical interest rate of 6 per cent to be charged against gross book value (without deducting depreciation or amortization) instead of net investment as reflected by the unamortized bonds. Even if Mr. Wright is correct in his interpretation of the charter, it is not proper fiscal accounting. If bonds are retired from earnings, there is no reason why interest charges should be figured upon the entire original bond issue, much less upon gross book cost against which depreciation has been accrued out of earnings.

The plant, as a matter of fact, has not only paid the full cost of service with a profit to the city, but has borne a duplication of charges—depreciation and amortization. Deductions before

profit should include all operating expenses, not forgetting maintenance and depreciation, but the further charge of bond redemption is a different sort of item. It builds up a surplus instead of an operating reserve.

Whether the municipal plant should have been extended over the entire city must be decided in the light of the basic purpose it is to serve. Mr. Husselman is convinced that the failure to do so has been deliberate and subversive of the public interest. It is true that the company has been left in possession of most of the distribution territory and this Mr. Husselman, apparently an "out-and-outer" for municipal ownership, resents. But it does not spell sabotage. From another viewpoint it may constitute a sound policy to be followed systematically with great advantage to all the people of Cleveland. If the municipal plant, small though it be, has been effective in securing low private rates, it will be considered by many to have fulfilled its function adequately.

The public benefits from the Cleveland municipal plant, or from any municipal electric system, do not come primarily from economies in generation, but rather from savings in distribution. It is in the domain of distribution cost that the Cleveland plant has set a standard for the company, a fact which both writers have completely ignored. The purchase of current from private sources, urged by Mr. Wright, to meet future load growth, in place of enlarging the present generating plant, may be a sound policy. It is a question admitting of simple technological determination, which, in any case, would have little influence on domestic rates. But the forced expansion of the municipal system to include the entire city might

involve duplication of costs so excessive as to destroy the merits of municipal operation. Deliberate restriction of distribution territory certainly is not sabotage when the company has on its part adopted the municipal rates throughout its own territory.

Mr. Husselman seems to think only in terms of generation, whereas it is in the field of distribution that the municipal plant is most significant and in which the city has effected obvious savings for the consumers. The fact is that municipal generation has little, if anything, to offer the city. Current can usually be purchased more cheaply from central sources than it can be generated locally, whether by municipal or private plants. But in the field of distribution, basic conditions are different and the municipal plant will normally possess a distinct economic advantage.

Mr. Wright's assumption that municipal operation is inevitably inefficient and that the results must always be bad is not necessarily supported by the specific instance which he cites. Pointing to the contract with a private company for the maintenance of the street lighting system, he claims a saving of \$40,000 annually over what it would cost the city to do the work through its own organization. But the example proves too much. If municipal management is unavoidably inefficient, how did it come that the city hit upon the expedient of saving \$40,000 a year through competitive bidding? Indeed, the \$40,000 is not a comparison of general efficiency between the city's own department and the company's own work, nor does it demonstrate that the company's day-by-day organization is more efficient than that of the city.

J. B.

HEADLINES

Chicago's financial troubles are still coming in bunches like bananas. The board of tax assessors had to keep open house on Sunday recently for more than 3,000 protesting property-owners, and bids on a million dollar bond issue offered by Cook County were so low the interest rate would have been $7\frac{1}{2}$ per cent if the offering had not been withdrawn. Teachers may be paid in scrip for May and June.

* * *

Chicago should not be lonesome, however. Falling valuations and shrinking bank accounts have hurt most municipalities. Even Detroit, "the city that rules itself," is not exempt. Detroit "is not impoverished or habitually dissolute; but it has waked up in the back room with a headache and its pocket money gone," reports the Detroit Bureau of Governmental Research.

* * *

Indictment of the mayor and former director of supplies is recommended by the Pittsburgh grand jury investigating irregularities in the city administration. Pittsburgh citizens and newspapers yearn for the manager plan. The ridden legislature would not give it to them.

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The short ballot for state officers was approved by the committee on revision of the Oklahoma Constitution. Nine officers now elective would be made appointive. When the committee finishes its work, the recommendation will be submitted to a popular vote.

* * *

The coördination of federal, state and local tax systems would be the purpose of a conference of tax officials urged upon President Hoover by tax commissioners of New York, Illinois and Massachusetts.

* * *

"The city manager idea is gradually forcing itself into a place in the thoughts of public administrators in England," declares L. Hill, general secretary, National Association of Local Government Officials.

* * *

Former City Manager William R. Hopkins of Cleveland admits he is "seriously considering" running for city council in the fourth district.

* * *

the Democratic machine, Saul S. Danaceau of Cleveland has collected signatures to a petition for a referendum to return to the mayor- the largest city operating under the manager constitution, this will be the fifth time voters of manager plan.

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MORE WATER FOR SOUTHERN CALIFORNIA

BY WILLIAM P. TEGROEN

Los Angeles

The Metropolitan Water District comprising Los Angeles and thirteen other cities is going 300 miles to the Colorado River for more water.

FACED with the certainty of a water shortage unless an additional supply is secured to meet increasing needs, Southern California has acted to bring to its municipalities a new supply from the Colorado River. This new water supply from the Colorado River is to be brought to the gates of the participating cities by a gigantic aqueduct that will deliver one billion gallons a day—and will probably cost \$235,000,000.

The sunshine which nature has lavished upon this region has its drawbacks as well as benefits. While this natural advantage has attracted more than 1,500,000 people to Southern California during the past ten years, the same sunshine now is the bane of public authorities and water engineers. Today this section is actually using 170 million gallons more water per day than nature is giving it in rainfall.

Not many years ago the region about Los Angeles, fed by the Los Angeles, San Gabriel and Santa Ana Rivers, boasted of a great artesian belt, 315 square miles in area. Water gushed from wells in tremendous quantities. Today this artesian belt has practically disappeared. Water levels are dropping in many regions by 20 feet per year, and in certain sections wells are running dry and salt water from the Pacific Ocean is setting in. The danger of salt water pollution that would forever destroy the underground

reservoirs for human use has become a menace.

SIERRA NEVADA SUPPLY INADEQUATE

The city of Los Angeles a quarter of a century ago found itself nearing the safety margin of its water supply, then sufficient to supply 300,000 people. It went to the Sierra Nevada mountains, tapped the Owens River, and brought it over 250 miles of mountains and desert to its city limits. It now has a supply sufficient for a population of 2,000,000 people and again is at the point where it must secure more water or stop its phenomenal growth.

The problem of Los Angeles twenty-five years ago, however, now is the problem of every other Southern California city, and it was to meet the common need for more water that the Metropolitan Water District was formed among the municipalities of the section.

The only possible source of a sufficient new water supply is at the eastern boundary of California, not far above the Mexican border, where the Colorado River nears the end of its long route to the Pacific.

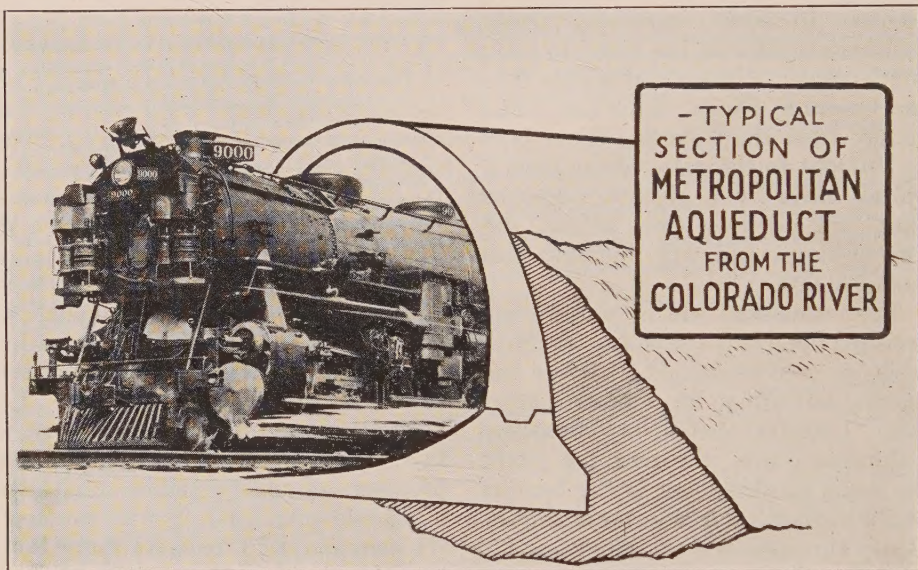
To insure a permanent and adequate supply from this source, however, it was first necessary to secure action by the United States Congress to construct a dam in Boulder Canyon in order that sufficient storage could be obtained. That project is now under way.

The route to be followed by the aqueduct has been selected. The intake of the great water carrier will be on the California side of the stream near Parker, Arizona. Thence it follows the ranges of the Whipple and Granite Mountains. The aqueduct will be approximately 300 miles in length. For a distance of ninety miles the water in the aqueduct will have to be pumped uphill, the net elevation of the lift being 1200 feet. The full flow of the aqueduct will be a billion gallons

Power necessary for the pumping has been allocated the district by the United States government.

ROUTE SELECTED

The engineering survey for the route of the aqueduct was completed under the direction of Chief Engineer Frank E. Weymouth of the Metropolitan Water District. In selecting the route for the aqueduct it was necessary to conduct surveys in desert and mountain regions that had never been sur-



LARGEST LOCOMOTIVES CAN PASS THROUGH SECTION OF AQUEDUCT—DIAMETER, 17 FEET

per day, or 1500 second feet. To lift that great volume of water to the high point of the aqueduct line at the peak of Shavers' Summit, will require approximately 250,000 horsepower. From Shavers' Summit the water will flow by gravity to the reservoirs. It is planned that the long boost will be accomplished by electrically-driven pumps, the power to come from the great hydro-electric power plants that the government will erect at the base of Hoover Dam in Boulder Canyon.

veyed before, and scores of locations suggested for the route had to be considered. The so-called Upper Parker Route, which was the one recommended, was found to be the most practical and economical.

Mr. Weymouth was formerly chief engineer of the United States Reclamation Service and in that capacity has had a wide experience in the construction of irrigation systems, water works and dams.

His findings upon the feasibility of

the project, the route that the aqueduct is to follow and the cost, were concurred in by an engineering board of review composed of three engineers internationally known for their ability in the construction and operation of water works.

GOVERNMENT OF WATER DISTRICT

Under an act of the California state legislature special authority has been granted to municipalities to create water districts for the purpose of developing new domestic water supplies, the district to be governed by representatives of the various member cities. These representatives, known officially as directors, constitute the governing board of the water district.

Led by the city of Los Angeles, the Metropolitan Water District has been created, this coöperative political subdivision now having a membership of fourteen Southern California cities. Representation to the board of directors is governed by a state act, each member city being entitled to one director for each \$10,000,000 of its total assessed valuation. Every municipality, however, no matter how small its assessed valuation may be, has at least one director upon the board.

The voting power of the various municipalities to the board likewise is governed by the assessed valuations, there being one vote for each \$10,000,000 assessed valuation. However, it is specifically provided in the act that enabled formation of the district, that no one city shall have more than 50 per cent of the voting strength of the district. For practical purposes this provision was written into the act to prohibit the city of Los Angeles from exercising full control and actual government of the district. As the assessed valuation of Los Angeles is far in excess of fifty per cent of all the

property of the cities making up the district, such control would have been vested in the Los Angeles representation to the board, had this provision been ignored in the bill.

No one city in the district can divide its vote.

To illustrate: Should there be a division of opinion on any question in the Los Angeles delegation, now numbering five but exercising a 50 per cent voting power of the entire board—the majority vote of the representatives of that city would be recorded as the attitude of the entire delegation.

Members to the board are appointed by the chief executive officers of the various member cities, and are subject to confirmation by the legislative bodies of the municipalities they are to represent. No definite term of office is specified.

The assessed valuations of the various cities form the basis for all their rights and powers in the board of directors of the district, and the administration of the affairs of the district. The amount of water to which each member city shall have title from the water supply is based upon its assessed valuation in relation to the assessed valuation of the entire district. Thus, if a city has an assessed valuation equal to one-tenth of that of the entire district, it can claim title to one-tenth of the water supply of the district. Likewise its share of expense, maintenance, operating costs, bond retirement and interest, is based upon the assessed valuation.

THE DISTRICT A POLITICAL UNIT

The district is a complete political subdivision and entity, comprising all territory within the corporate limits of the various member cities.

The board possesses a wide latitude of power. It is a legislative, administrative and executive body. It may

adopt ordinances in keeping with its activity. It may order the member cities to pay their individual shares of operating costs, etc. Each year it notifies the municipalities what the respective charges of each will be to meet the financial obligations of the district.

How this money is to be raised, is left to the discretion of the various

pose, and by the time bonds are voted for the construction of the Colorado River aqueduct, its officials expect to have sufficient moneys on hand to meet all interest and sinking fund charges charged to it by the district.

As a political subdivision the Metropolitan Water District is unique in character in that the municipalities in the Los Angeles Metropolitan area



PATH OF AQUEDUCT 300 MILES LONG—HIGHEST ELEVATION 200 FEET ABOVE COLORADO RIVER

cities. That may be done by taxes levied by the various member cities, and generally this practice is followed, although one municipality—the city of Glendale—is now building up a surplus in the earnings of its municipally-owned light and power system, to meet its share of operating costs of the district.

That city now has a surplus of more than half a million dollars for the pur-

that constitute it are not entirely contiguous. At the present time the member cities are Los Angeles, Long Beach, Pasadena, Glendale, Beverly Hills, Burbank, Anaheim, Colton, San Bernardino, San Marino, Santa Monica, Santa Ana, Fullerton, and Torrance. Los Angeles, Long Beach, Pasadena, Glendale, Beverly Hills, Burbank and Santa Monica are contiguous. In all cases the smaller cities mentioned meet

with the boundary line of Los Angeles. San Marino joins with the Pasadena boundary.

But Anaheim, Colton and San Bernardino all are far removed from Los Angeles, the latter two cities lying more than 40 miles from the Los Angeles city limits.

Under the state act that authorized creation of the Metropolitan Water District, notice was sent out by the Los Angeles city council to all Southern California municipalities inviting their membership in the district.

It was necessary under the law that the question of joining the district be submitted to the voters of each city that signified its intention to join. The voters having approved incorporation of their individual cities into the district, the members of the board of directors were then appointed by the various appointive powers.

Once the district was organized, it still remained open to membership by other cities. Under the law any municipality wishing to join must first officially request, through its governing body, admittance to the district.

The directors then have the power to grant such city the right to submit the question of joining in the water district, to a vote of its electorate, and a majority of the votes cast decides the matter. Long Beach is the latest city to join. It is the largest city, next to Los Angeles, in the district.

The board of directors has the power of calling an election for the submission of a bond issue for the construction of the water works system, which is to be

voted upon by the citizens of all member cities.

Taking notice of the vital necessity of water, the state enabling act under which the Metropolitan Water District was created, provided that a simple majority of all the votes cast for the bonds shall be sufficient to adopt the issue. The usual procedure requiring a two-thirds majority vote for bond issues was then waived to give the huge Colorado River aqueduct project a more favorable chance to be consummated.

COST READILY ABSORBED

The value of the property within the Metropolitan Water District has been estimated at seven billions of dollars. Students of political economy point out that a five per cent shrinkage of valuation of this property, would greatly exceed the amount of the total cost of the proposed aqueduct and its appurtenant works. The heavy financial outlay that the project will require will, therefore, they point out, more than be absorbed by the stabilizing effect it will have upon property values.

The Metropolitan Water District board of directors have already determined that the bonds to be voted for the project will run for a period of fifty years, payment of principal retirement to be withheld for the first ten years of the life of the bonds. After that time has elapsed, the revenues derived from the sale of water to the various member cities, will bring in sufficient revenues to make the district a self-sustaining body, in part at least.

COUNTY REORGANIZATION BLOCKED BY OHIO LEGISLATURE

BY R. C. ATKINSON

The Ohio Institute

Small-county men and city-machine politicians unite to defeat a proposed home rule amendment to enable counties to modernize their government with expanded powers to meet metropolitan needs.

COUNTY reorganization has been blocked once more in the Ohio legislature. Though the constitutional amendment which had been prepared by the advocates of county reform passed the senate in somewhat mangled condition, it was hopelessly strangled in committee in the lower house. Its defeat was no surprise. The county affairs committee of the house consisted chiefly of small-county men and organization Republicans from Cincinnati—the very elements most suspicious of or hostile to change in county government. However, had the measure been reported out, it is a practical certainty that it would have been beaten by a combination of the same forces on the floor of the house. The truth is that, while the urban public is becoming increasingly aware of the necessity of modernizing county government, rural opinion has not yet been aroused to the importance of such a change. In fact, the amendment was caught by the crest of a wave of opposition to centralization of authority, which has been sweeping over rural Ohio during the past two years.

CONSTITUTIONAL AMENDMENT CAREFULLY DRAFTED

The amendment submitted to the legislature was the product of months of study and discussion among representatives of the major business, farm and civic organizations of the state. It had its beginning in a state confer-

ence on county government called by the Ohio Chamber of Commerce early in the summer of 1930, though the movement had already gained some impetus during the preceding legislative session. As a result of this conference, a drafting committee, representing both urban and rural points of view, was appointed to formulate a suitable amendment. The completed draft was later submitted to a second state conference and somewhat revised in the light of criticisms voiced by the group.

The amendment was designed to serve a double purpose—to open the way for a thorough-going modernization of county government throughout the state and to afford a means for the development of an adequate central municipal agency for Greater Cleveland. Five principal features were embodied in the measure in addition to the repeal of existing constitutional provisions which block any general change in county organization. First, the amendment authorized the enactment of optional plans of county government, which might be adopted by any county by popular referendum. This provision alone, together with the repealer, would have opened the way for real reorganization, but it was felt that counties should have the right to adjust their governmental organization more definitely to local conditions if they desired and that the legislature might be slow to authorize some of the newer plans of government. Accord-

ingly, counties were permitted to frame and adopt their own charters. Home rule only extended to governmental machinery, however, the matter of powers being left to general statute.

A third feature was a general grant of municipal powers to charter counties, the actual exercise of any such power within any local subdivision being contingent upon the consent of the subdivision. This provision was intended to permit a partial transfer of municipal activities to the county government where local conditions and local opinion were favorable to such a change. In particular it was designed for the use of some of the large urban counties which have a considerable suburban area, but which, like Hamilton County, were unwilling to accept the more drastic provision as to transfer of municipal services desired by Cuyahoga County.

SPECIAL FEATURES FOR CLEVELAND

The fourth feature and the most novel part of the amendment was the plan for dealing with the regional government problem in Cuyahoga County (Cleveland). The Cleveland metropolitan area now embraces some 55 separate municipalities of which 12 rank as cities (5,000 population or over). Unlike some metropolitan districts, Greater Cleveland is almost entirely confined to a single county. The same is substantially true of the other large urban centers of Ohio, with the exception of Greater Cincinnati which extends into Kentucky. In consequence, the county is both an available and a logical agency in which to centralize those municipal services needing unified administration. Some tendency along this line has already been evident.

So long as each municipality enjoys a constitutional grant of all powers of local self-government, which cannot

be restricted by statute, it is impossible, however, to effect as definite a centralization of authority as is needed effectively to handle such metropolitan services as main highways, trunk sewers, water supply, health administration, etc., through the county government. Some plan must, therefore, be provided by which such services can be transferred to the county as the central government of the area and the dangers of obstruction and lack of coöperation on the part of local subdivisions be removed. This the amendment proposed to accomplish in the case of Greater Cleveland by permitting the county charter to vest in the county, either exclusively or concurrently, any power enjoyed by municipalities. Thus, the county could determine for itself the division of authority between the county and the local subdivisions and in effect reduce existing cities and villages to the status of boroughs within a central municipality.

In order to safeguard the interests of the suburbs, a special set of requirements was laid down for the adoption of a charter conferring municipal powers upon the county. In addition to securing a favorable majority in the county as a whole, such a charter must be approved by a majority of those voting thereon (1) in the central city, (2) in the county outside such city, and (3) in a majority of the municipalities and townships of the county. The last of these requirements would make the readjustment of local powers a very difficult undertaking, but it appears to be the price of suburban acceptance of any plan for the unification of municipal administration in the metropolitan area.

MORE FLEXIBLE THAN PITTSBURGH'S SCHEME

Unlike the Pittsburgh plan for the establishment of the so-called "fed-

erated city," this proposal did not attempt to define by constitutional enumeration the boundary between the powers of the central government and the individual subdivisions or boroughs. By leaving the matter to be determined by county charter, the provision possessed the merit of flexibility. It was felt that once the county government had been modernized a gradual transfer of municipal powers to the county would follow as local confidence in the county increased and the public became convinced of the desirability of a more unified system of government in the metropolitan region. Though restricted to Cuyahoga County, the flexibility of the provision was such as to make it applicable to any other large urban county to which it might later be extended.

Beside the provisions dealing with county government, the amendment also contained a section authorizing the creation of "rural municipalities." This was frankly an experimental feature, the exact significance of which was not particularly clear even to the framers of the amendment. It was inserted to satisfy the demands of certain rural leaders, who keenly felt the inadequacy of existing governmental machinery in unincorporated areas. Admitting the failure of the township to meet rural needs, they yet were not ready to turn to the county as the sole agency of local government in rural territory, largely it would seem because of the desire that rural problems be handled by a body in the composition of which the city electorate would not have a voice.

OPPOSITION FROM RURAL QUARTERS

The amendment received its principal support from the large cities and encountered its most serious opposition in rural quarters. In Cleveland the

Regional Government Committee, representing the leading organizations interested in public affairs in the metropolitan area, sponsored the measure, and in most of the big cities it had the backing of the chambers of commerce and other principal business and civic organizations. The leaders of the state farm bureau federation and the grange were also friendly to the proposal, though inclined to oppose the provision as to Cuyahoga County. Their opposition to this part of the measure arose from the fear that the interests of the rural fringe might not be adequately protected in the reorganization of local government.

Strangely enough the major opposition came from the state association of township trustees, a body organized two years ago to aid the townships in securing a portion of the gasoline tax for use on township roads. This organization employed the proposed amendment as a bogey with which to arouse township officers and rural people generally into flocking to its colors in defense of the township and the sacred rights of local home rule. It was claimed that the amendment would jeopardize the existence of the township and that it meant centralization of power and loss of popular control of local government. The first of these contentions was groundless as the legislature already had the right to abolish townships if it chose, and the last involved a total misconception of the purpose of county reorganization. Much capital was made of the provision applying to Cuyahoga County and the possibility of rural people being forced into a scheme of metropolitan government against their will. Though only a few thousand farmers could possibly be affected by the Cuyahoga County section, their complaints met a sympathetic response among rural people elsewhere. While the claims broad-

cast over the state by the township trustees' association were unfounded and some of them smacked of misrepresentation, they played upon rural fears and prejudices sufficiently to produce a tide of opposition which effectively blocked the passage of the amendment.

Another source of active opposition was the suburban officials of the two largest counties. In Cuyahoga County an association consisting chiefly of suburban officials was formed to fight the proposal. Certain municipal officers in Hamilton County also were active. This opposition did not indicate the hostility of the suburban popu-

lation as a whole, however. In fact, the Regional Government Committee in Cuyahoga County consists largely of persons residing outside the city of Cleveland.

Much real progress has been made in spite of the defeat of the amendment. The interest displayed in the larger cities is gratifying and indicates that party organizations in the big urban counties must soon reconcile themselves to the modernization of county government. On the other hand, it is clear that a large amount of educational work must be done in rural territory before a county amendment can be adopted in Ohio.

TEANECK UNDER MANAGER PLAN CUTS TAXES TEN PER CENT

New Jersey township smiling while it pays its first tax bills under manager government. :: :: :: :: :: :: ::

WHILE Teaneck, New Jersey, awaits the opening a few months hence of the great George Washington memorial bridge spanning the Hudson River, which will make Teaneck one of New York City's most accessible as well as most attractive suburbs, Teaneck is watching with satisfaction the working out of the results of its decision, less than a year ago, to adopt the municipal manager form of government.

Teaneck had to do something. It was head over heels in debt—approxi-

mately \$1,500,000 over its debt limit as fixed by the law passed early in 1930. Its tax rate was high, and gave promise of going higher unless something was done. Just why Teaneck found it urgently necessary to do something is best shown by the tax and budget figures of the last five years. The gross tax collection figures shown in the following table include school, state and county taxes along with the amounts collected for the township government:

	Total Tax Collected	Township Budget	Township's Percentage
1926.....	\$475,592.58	\$119,300.00	25.01
1927.....	664,638.31	192,980.28	29.04
1928.....	962,464.00	345,492.68	35.89
1929.....	1,209,987.26	482,400.00	39.87
1930.....	1,323,728.10	592,038.58	44.73
1931.....	1,227,558.16	508,990.62	41.46

In four years prior to the change in government the total collected for township purposes increased 291 per cent, while the township's share of all taxes collected, increased 80 per cent. In ten years the per capita cost of the township government had increased from less than \$10 to more than \$35.

So Teaneck was in a mood to listen attentively to the workers of the Teaneck Taxpayers' League, an organization of independent voters formed early in 1929 to advocate the municipal manager plan, as a means of breaking the shackles of party machine rule.

Up to that time the league had been gaining gradually in membership, and quietly spreading its gospel in a limited circle. In January, 1930, it reorganized and launched an active township-wide campaign, which was kept up without a halt until on September 16 the referendum to change Teaneck's government to the municipal manager form was carried by a majority of 50.

It is not pertinent here to recount the tactics used by the opponents of the change, nor would space permit it. Suffice it to say that—as occurs in every community where important party machine entrenchments are threatened—the opposition halted at nothing. Misrepresentations, threats to township employees, whispering campaigns of personal vilification of Taxpayers' League leaders, appeals to racial and religious prejudices—all were used freely, and party whips were cracked over every back they could reach.

But the referendum carried, and four weeks later, on October 14, five Taxpayers' League candidates were elected with average votes 885 greater than the average of the next highest five among 19 candidates—all nominated by petition and placed on the ballots without party designation.

NOVEL PRE-ELECTION PLEDGES

On Armistice Day the new council was sworn in, and Teaneck sat back to watch and see what would happen—to what extent the councilmen would live up to their pledges, subscribed before a notary prior to election.

These pledges, in brief, bind the council to disregard party, race and creed and consider only fitness for office in making appointments; to hold no secret sessions, and in all their acts to be governed solely by the interests of the taxpayers without bias or favoritism.

Taking office November 11 and confronted with the task of drafting a budget that must be finally approved, after public hearing, early in February, the new council had to bestir itself.

The New Jersey law authorizes council to create at will advisory boards of citizens, to serve without pay and with power only to investigate and recommend. The first created was an advisory board on finance and assessments, including an able engineer familiar with township affairs, two bankers, an investment broker and an auditor, who gave unsparingly of their time, cooperating with the township manager and the council in drafting the budget.

Since then a lot of water has gone over the dam, and here are some of the results:

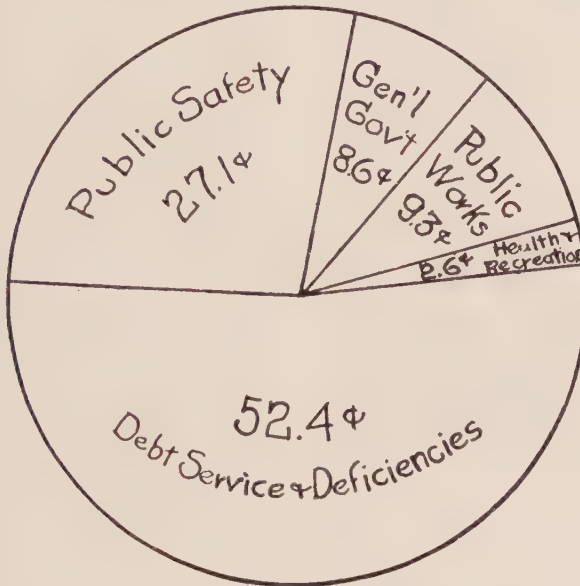
EXPENSES PROMPTLY REDUCED

Despite mandatory increases in various items aggregating more than \$40,000, the budget showed a net reduction in total to be raised by taxation amounting to more than \$83,000, as compared with 1930. Helped by about \$14,000 reduction in amount required for school purposes, this resulted in lowering the tax rate from 6.08 to 5.46—just a little better than 10 per cent—and Teaneck now smiles as it approaches Tax Collector Richard

J. Pearson's window to pay its tax bills. And why not? For Teaneck, with a population of approximately 17,000, enjoys a reduction of \$5 per capita in the cost of its municipal housekeeping.

Distribution of the tax dollar shows: township, 41.5 cents; schools, 40.6 cents; county, 15.4 cents; state, 2.5

council had the good fortune to secure Paul A. Volker, who had had five years' successful experience as city manager in Cape May, New Jersey, working under the same state law—an experienced engineer and highly skilled in all branches of municipal administration. Note now some of the contrasts since November 11, 1930:



The 41.5 per cent of total taxes collected in Teaneck devoted to the township government is expended as shown in this diagram from the 1931 budget. More than half goes for debt service and deficiencies, leaving but 19.8 per cent of each tax dollar for operating the township.

cents. Of the township's share, 21.7 cents are required for debt and deficiencies, leaving 19.8 cents of the tax dollar to operate the township.

How was it done? The answer is a clear demonstration of two of the chief advantages of the municipal manager plan, namely: through the appointment of a capable township manager for full-time service, and the inauguration of a council unhampered by any party obligations.

For township manager the Teaneck

WHERE SAVINGS WERE MADE

Then the street gang numbered 36. It was cut to six during the winter, rose to a maximum of 25, in early summer, and later was reduced to 15 as a summer normal.

Deprived by the debt limit law of power to sell bonds for improvements, the township has given relief to residents on about three miles of impassable dirt streets, by laying a stone sub-base twelve feet wide, covered with

cinder, at a cost of about \$1,500 a mile.

Introduction of hot patching has reduced by 40 per cent the cost of a large amount of street repairs, and turns out a better job than the cold patch method formerly used. The saving for the season will reach into four figures.

Purchase of an Elgin sweeper to replace hand sweepers has given better street-cleaning service at less cost, and roadsides and vacant lots are being cleaned up as never before.

Two new cars and an asphalt melting kettle have been bought for the street department.

All motor repair work is now done at the township garage.

Fifty new street signs have been installed and all old signs painted.

For 1930 an appropriation of \$8,000 was made for the town dumps and three men employed. The 1931 budget appropriated \$2,000 for the dumps, but none of it is being spent, a contract having been given to a private individual glad to tend the dumps for their salvage value.

For sewer disposal plants \$40,000 was appropriated for 1930 and seven men were employed. For 1931, \$20,000 appropriated and four employed.

For the township engineer's office the 1930 appropriation was \$25,000 and the personnel, six men, including an engineer at \$6,000. For 1931, the budget provides \$6,000. Mr. Volcker serves as engineer for one dollar. The office has a personnel of four, including only one—Volcker's assistant—on regular annual salary basis.

For care of buildings and grounds—1930, \$12,500, with five men; 1931, \$8,250, with two men. Custodian, assistant janitor and assistant ground keeper dispensed with as superfluous.

In the police department a salary increase of \$10,000, made mandatory by vote of the people, raised the appropriation only from \$89,180 to

\$91,190, while many improvements in police work and methods have been introduced and the department equipped with four new cars with maintenance guarantee for one year. A system of complete record of all summonses has been established, preventing quashing; an accident spot map prepared, and a department of records and criminal identification put in operation.

The 1930 budget provided \$50,700 for street lights, of which \$46,000 was expended. The 1931 budget cuts this to \$35,000. Reduction chiefly from lowering candle power, and further reduction probable.

Despite a mandatory increase in salaries of \$3,400, the fire department budget was cut from \$37,860 to \$34,930 without impairing efficiency, and a course in first aid has been given. Fire hose for which previous administrations had been paying \$1.20 a foot is now bought for 65 cents a foot.

Entrance examinations for both police and fire departments have been established on a civil service basis.

COST OF ADMINISTRATION REDUCED

While the township manager's salary of \$7,500 has been added, the employment of a manager being mandatory, the general government cost including this has been cut from \$52,000 to \$48,151. This has been accomplished chiefly through reduction of legal costs and consolidation of functions and elimination of duplicated work in the financial departments. Combining the treasurer's and collector's offices, alone, saved \$1,200. Rearrangement of telephone service saved another \$600.

For 1,000 twelve-page budget circulars for 1930, the old township committee paid \$275. The new administration for an identical job received an estimate from the same printers of \$125.

All materials required are bought on bids.

These are some of the reasons why Teaneck feels that it is getting a dollar's worth for every dollar it pays in taxes—and that's all it wants. It is getting better governmental service at town hall, where all departments are open continuously from 9 to 5. Formerly there was a one-hour luncheon interval during which all departments were closed.

Additional advisory boards—medical, public safety, building code, charity—comprised of citizens of highest standing and ability and representing every shade of politics and creed, serving the township without compensation, are studying the township's needs in their respective fields.

The state board of municipal finance, employed as auditors, is putting the township's accounts in shape and correcting the errors and oversights that had accumulated for years under auditors employed on a political basis.

Executive sessions have been abolished and all conferences and sessions of the council opened to the public.

Surplus on hand in depositories paying one per cent is being used to buy outstanding bonds drawing $4\frac{1}{2}$ to 6 per cent, saving the difference to the township.

Inequalities of assessment are being studied with the coöperation of the state board of assessors. The board of three assessors has been abolished in favor of a single assessor, with payroll reduction of \$2,000 a year.

Old improvement assessment matters and legal problems, some of which had been hanging fire for years, are being cleared up.

Investigation of poor relief cases and revision of poor relief orders have been established.

Tax bills of 1931 show on their face distribution of the tax dollar for various

purposes, with comparative figures for 1930 and 1931.

The budget appropriation for the township's share of improvement assessments and deficiencies for 1931 is \$18,500 greater than for 1930.

Collections so far exceed anticipation estimates.

The senior high school class, in groups, has been given a course of instruction in the operation of the township government.

On July 4, a free playground for small children, with a wading pool and standard playground equipment, was dedicated with appropriate ceremony.

COUNCILMEN NOT POLITICIANS

Teaneck's councilmen feel that they are beginning to learn their job; but they are keeping right on studying it—developing plans for future constructive work to further improve conditions. They are not politicians. The mayor, elected as such by his fellow councilmen, is Karl D. Van Wagner, a sales executive. The others are Louis G. Morten, attorney; Samuel S. Paquin, newspaper man; Frederick T. Warner, engineer, architect and builder, and Walter Ely, railway executive.

They are the governing body of a township whose population increased from a little over 4,000 in 1920 to more than 16,000 in 1930, and where, with opening of the new bridge only a few months ahead, there is prospect that population may double in the next five years. They know their work is cut out for them—that the heaviest part of their task is still ahead. Their terms do not expire until May, 1934.

The Taxpayers' League maintains its organization as an active factor in the township's affairs, and stands back of the council it elected, and there is every indication that the new administration has more friends today, by far, than when it took office.

HOW ROCHESTER MANAGES ITS REAL ESTATE

BY WARREN W. ALLEN

Agent in Charge of Real Estate, Rochester, N. Y.

With the advent of city manager government Rochester adopted business methods in purchasing and managing municipal real estate. :: ::

PUBLIC ownership and municipal regulation of real estate are essential to the very life of a community. Yet, in most cities of the United States there is an exceedingly limited acquaintance with either the method and cost of acquisition, or the breadth and scope of the "demesne." Educational, recreational and administrative needs are more or less in the public eye. Municipal acquisition for the opening, extension and widening of streets, public squares and parkways, which is the determining factor of city planning in its relation to civic progress, the appropriation of rights and easements, and the sale and rental of excess property are problems of city government, which, until of late years, have been objects of indifference.

The breaking away from this indifference and the need for the creation of constructive and scientific effort came to Rochester, like so many other American cities with the advent of improved and more involved city planning. The final development of city building is primarily a question of the acquisition of land at reasonable cost. The mass of obstacles encountered to this end has compelled ever increasing administrative pressure of the highest kind.

Rochester, in 1927, had no centralization of real estate activities. The department of public works which was charged with the handling of property, was located in one building, the legal

department in another, deeds and records were yet in a third office. There was no concentration of effort. As a result, the city manager, upon taking office January 1, 1928, was faced with the problem presented by 98 old authorization purchase ordinances, originally involving the acquisition of 658 parcels of real estate, 389 of which had been purchased at a cost of over four million dollars, plus the large amount of accruing interest. The passage of some of these ordinances dated back ten, twelve, and fifteen years with purchases stringing along yearly. The problem of completing these ordinances with all possible speed in order that the improvement cost might be assessed and interest stopped, brought immediately the equally important task of securing the balance of the property at reasonable cost and selling the excess. At the same time it was necessary to start a large volume of new work.

INVENTORY THE FIRST STEP

The real estate division was formed immediately as a division in the department of finance. A complete inventory of all city-owned property numbering over 1000 parcels and all ordinances pertaining to real estate was made for the first time in the history of the city. Each parcel was given a separate index card prepared for the purpose. Description, consideration, date, for what purpose, and

from whom and by what authority acquired, together with the income derived and disposal, if any, with the authority and approval ordinances and general history of each property was shown. This index has become permanent.

All matters pertaining to city real estate were at once centralized—besides the perpetual inventory, the office keeps a record of all condemnation awards, insurance policies, foreclosure actions, references to deed and abstract filings and complete negotiation history of all purchase and sale authorization ordinances. Excess property, which was formerly leased through an outside broker, who received a commission from the city for this service, was taken over and completely handled by the newly formed division.

As a result of this effort, the division since 1928 has negotiated the purchase of 312 parcels of property at a total cost of \$1,972,183.34. Eight condemnation proceedings involving 40 properties with awards totaling \$93,288.06 have been completed, 142 parcels of excess land have been sold and over \$100,000 in receipts have been collected from 58 rental accounts, which are properties held for future improvements.

The most important function of this office, however, is the acquisition of property. For many years the purchase of real estate by many municipalities has been carried on in an unscientific manner, with too little attention given to fact. This has particularly been true in the case of condemnation procedure.

ACQUISITION PROCEDURE IN ROCHESTER

The real estate division is constantly collecting data on the transfer of property throughout the entire city. Immediately upon the passage of an

authorization purchase ordinance, the director of design and construction furnishes the real estate division with a map upon which is located all of the property involved in the improvement. If the division has in its possession records of legitimate sales of property in the locality of the proposed acquisition they are used as a working basis for an appraisal. If not, it is the duty of the office to go into the field and secure such a record. These are procured in various ways. Either the grantee or grantor or both are approached. We have found, however, that as the grantor's interest in the property has ceased, the probability of securing this information from him is more likely. For prior transfers this information comes from deed stamps in the county clerk's office. Brokers who have handled the transactions in question are also helpful. Armed with these facts a market value appraisal is made. To check the division's appraisal, we then secure an appraisal of the property from the Rochester Real Estate Board. The percentage of condemnation cases in Rochester is low. This, to a large extent is due to the prestige which the Real Estate Board has been able to build up with real estate owners in the city. The ultimate objective, of course, is the elimination as far as possible of condemnation proceedings. If negotiations fail, however, we are well fortified through our witnesses to present a strong case.

CONDEMNATION

In condemnation proceedings of the past it has been the custom for the owners to attempt to establish values far in excess of the market value. Municipalities, on the other hand, have attempted to secure properties at an exceedingly low figure, and in so doing have paid too little attention to

what the "real value" actually was. The outcome of this condition and the lack of scientific information has left condemnation commissions in somewhat of a dilemma with the result that the amount awarded was oftentimes the "common mean" between what the city was willing to pay and the figure originally set for the property by the owner.

In Rochester, condemnation awards prior to 1928, generally speaking, were so out of proportion to the real value of the property that the city used condemnation only as a last resort. The city made (and still does) application to a court for the appointment of three commissioners to hear the evidence, view the property and fix the award. A separate commission is appointed for each project. The resulting awards are influenced by several factors: (1) the political complexion and inexperience of the tribunal as appointed, (2) the extravagant claims of the experts testifying for the owners and (3) the ineffectiveness of the city's presentation of its case, both in preparation and in sufficiency of competent testimony. Commissioners are paid by the city on a per diem basis which is the same rate whether the commission sits a full day or meets only to adjourn.

Many of the larger condemnation cases have taken a year or more for completion of hearings. Interest charges have accumulated meanwhile on the purchase price of properties already acquired, and general delay results in the assessment of benefits. A study is now being made of the first of the above mentioned causes. We believe in an amendment to our law which would provide for the establishment of a permanent non-political commission composed of technical men, who are conversant with values and condemnation law. This commission could be appointed by the

courts and should be afforded every possible dignity.

The Rochester Civic Improvement Association, a body of public spirited citizens interested in an orderly development of the city plan now being completed by Bartholomew and Associates of St. Louis and the Chamber of Commerce have signified their interest in this change.

The third cause of large awards, the ineffectiveness of the city's presentation of the case, has been remedied and in so doing has, to a large degree, discouraged the second of the above causes, the extravagant claims of the owner's witnesses. To secure fair awards it is most essential to have the very best legal talent available who, aided by well-prepared, high quality witnesses and a mass of legitimate testimony, must with success not only legally combat a well-rounded assortment of attorneys, but also be versed in structural, land value and general real estate terms and conditions. In 1930, the city manager secured such a special counsel who devotes his time to condemnation proceedings. This counsel, who works in close coöperation and harmony with the real estate division where the testimony is prepared, is also studying the possible change of condemnation law mentioned above.

DELAY BEING ELIMINATED

While we feel that progress has been made in the acquisition and handling of real estate in Rochester, much is still to be accomplished. We are anxious to eliminate the delay in spreading or assessing the cost of an improvement.

The three main causes for such delay are: (1) Lack of administrative effort; (2) The taking of excess land; (3) Condemnation procedure. The first of these causes has been remedied somewhat by our centralized concentration.

The corporation counsel has assigned extra attorneys for the examination of title and closing transactions. The second cause, the taking of excess properties, came from the theory of acquiring more land than actually needed and then selling to help pay the original cost. Frankly, the city has held the "bag" in every case. The cost of the improvement, of course, cannot be spread until every

parcel has been sold. We now have title to 95 parcels taken as excess in connection with 18 improvement ordinances. These unsold parcels have a total assessed value of \$369,030, and many have been carried for years. It is, therefore, naturally felt that this problem presents great opportunity for improvement. The third cause of delay, condemnation, has already been spoken of.

THE BUFFALO PUBLIC SCHOOL SURVEY

BY HARRY H. FREEMAN

Director, Buffalo Municipal Research Bureau

A sweeping survey recommends abolition of Buffalo's dual system of school control and points the way to many new economies. :: ::

THE management of the schools of Buffalo is under the control of a board of education consisting of five members appointed from the city at large by the mayor, such appointment being subject to confirmation by the council. The board of education must submit its annual estimates to the mayor and council and these officials in turn must make provision in the annual budget for the maintenance and operating expenses of the schools. Such appropriation, however, is made in a lump sum for the council has no authority to determine or fix the details of the educational budget. In addition the council must provide the money through bond issues for the purchase of new school sites and the construction and equipping of new school buildings.

Our experience with this dual system of control has resulted in an annual debate—to use a term inadequately descriptive—over the appropriation to be allowed the board of education. A condition in which an appointed

school board must beg or bully the council for its funds, and having obtained them is responsible to no one for what it does with them, is certainly not good organization nor conducive to an harmonious relationship. It has been at the root of the disputes which have been so frequent and so bitter in Buffalo over educational matters.

THE 1930 CONTROVERSY

The debate, in January, 1930, differed from those of previous years both in the subject matter of the argument and in the line-up of the debating teams. In the past, the question had always been the size of the appropriation; in 1930, it was the educational use to which the appropriation, whatever it was, should be put. Usually the line-up of the contestants had been the board of education versus the city council; it turned out to be, in January, 1930, the board of education versus the professional educators and their

lay supporters. Because the board of education determined at that time to make drastic cuts in the estimates for the 1930-31 educational budget as submitted by the superintendent of schools before transmitting them to the mayor and council, the board found itself for once affiliated with its old enemies, the mayor and council, and in opposition to its former allies, the teachers and their friends. The ire of the latter group was particularly marked because of their contention that the board had made its cuts without consulting the superintendent with the unfortunate result, in their opinion, of impairing seriously the well established educational program.

THE REQUEST FOR A SURVEY

In response to repeated editorials in the local press and at the suggestion of many prominent citizens, the board of education on February 11, 1930, adopted a resolution requesting the Buffalo Municipal Research Bureau "to conduct a survey of all departments of the board of education and submit a report of its findings to this board and requesting that the part of the survey which deals with the educational service of the board of education be conducted by the most competent educator or educators available to be selected by the Municipal Research Bureau."

Even if this resolution had not been passed by the board of education at that time, a survey of the schools of Buffalo was inevitable sooner or later. Rightly or wrongly there was widely prevalent in the public mind the feeling that the schools were being administered extravagantly, and that the educational idea, sound in itself, had been carried to unreasonable lengths and unless put within bounds, would soon threaten the financial stability of the city government.

ORGANIZATION FOR THE SURVEY

The proposed survey was by far the biggest piece of work the Buffalo bureau had ever been asked to do. The cost of the survey would unquestionably exceed considerably any sum which could be spared from the current budget of the bureau; the permanent bureau staff was small in number and was not trained to deal with the purely educational questions, which, with other questions, would have to be studied. Before committing itself, therefore, the ways and means of meeting both these difficulties had to be determined.

The bureau, however, immediately began to lay tentative plans for doing the work; its director visited a number of other cities to confer with authorities on such surveys and with such persons as it might be desirable to retain as consultants. Financial plans were devised, and on April 8, 1930, the board of directors of the bureau formally voted to accept the invitation, and the board of education was so informed.

The bureau had been fortunate in being able to arrange with United States Commissioner of Education William John Cooper to have the staff of the United States office of education survey the "educational service" of the Buffalo schools, while the staff of the local research bureau would study the more strictly "business" affairs of the school system. Both parties to the survey supplemented their own staffs with outside consultants. The field work was begun in April and continued until late in November, though it was interrupted somewhat by the summer vacation period.

The complete survey report exceeded 500 pages, and was published in two volumes, containing not only the text but a great number and variety of tables, charts, diagrams and illustrations.

THE SURVEY RECOMMENDATIONS

Obviously it would be impossible to cover in a short article such as this, the many interesting features discussed at more or less length in the twenty-one chapters of the two volume report. A mere summary lists 214 separate findings and 192 specific recommendations.

A few of the major recommendations were:

1. That Buffalo consider the advisability of electing its board of education.
2. That the board of education be given complete fiscal independence.
3. That Buffalo adopt the junior high school system, it being the only city in the United States with a population of a half million or over that does not have junior high schools.
4. That there be a five-year "holiday" in school building construction.
5. That the study-hall plan in the high schools be modified to retain only study rooms enough to accommodate pupils who, at a given time, are not in classrooms. This would permit the subdivision of many of the present large study halls into classrooms, thus adding greater capacity to the buildings.
6. That the board of education adopt as a policy the building of an E type of elementary school instead of the present block with enclosed court, the E type being more economical to build, easier to enlarge and better adapted for educational use.
7. That the accounting system and budget procedure of the department be entirely revised.
8. That the cafeterias in the elementary schools be put on a self-supporting basis, thus eliminating an annual deficit of \$90,000.
9. That the board of education study the cost of operation and maintenance of both elementary and high schools with a view to reducing present high costs to a basis comparable with other cities. The survey indicated a possible saving of over \$400,000 annually by so doing.
10. That a bureau of research be established within the department.

CONCLUSIONS

In making this survey of the Buffalo public schools, the Buffalo Municipal Research Bureau at no time lost sight of the fact that the task involved a deep responsibility upon its part not only to the educational authorities, but, as well, to the taxpayers of the city and to all those citizens who enjoy the service rendered by the public schools of Buffalo. The spirit of the survey was purely one of helpfulness. It was not the aim of the bureau to tear down but rather to build up. The general objective of the survey was to determine where economies could be made which would still not prevent those attending the public schools of Buffalo from obtaining a sound, modern education comparable with what can be obtained in other cities in Buffalo's class.

At the conclusion of the survey, the Buffalo *Evening News* said editorially:

The Municipal Research Bureau has done well the work to which it was called by the Board of Education. The survey has covered every phase of the educational plan, the scholastic as well as the administrative side. The report has given the people a better insight into the operations of the department than they ever had before. All features of the plan have been weighed and measured, with adverse criticism here and generous commendation there.

MUNICIPAL DEBT LIMITS AND THE FINANCING OF PUBLICLY OWNED UTILITIES

BY LAWRENCE L. DURISCH

University of Nebraska

The attitude of the courts towards various devices for evading debt limits with respect to publicly owned utilities. :: :: :: :: ::

IN connection with the constitutional and statutory debt limitations placed upon American cities, the question has arisen as to whether obligations incurred for the purchase or repair of municipally owned utilities are "municipal debts" within the meaning of these provisions. Thus in case a city has incurred debts up to the amount permitted by the constitutional or statutory provisions, will an obligation be considered void, even though incurred for the purchase or repair of a revenue producing utility? With the tendency toward the extension of municipal ownership this question has assumed increased importance as is shown by the frequency with which it has been presented to the courts in recent years.

A study of these cases indicates, not only that the courts of the various states are not in agreement as to what constitutes a municipal debt, but also that various methods are being used by the cities in attempts to use utility earnings to escape such limitations. With the tendency towards an increase in the proprietary functions of cities, a brief survey of these efforts to escape debt limitations and the attitude of the courts towards such devices may well be made.

SPECIAL UTILITY DISTRICTS

The oldest method of taking the municipally owned utilities out of the

scope of constitutional debt limitations is to form, with the coöperation of the state legislature, special utility districts superimposed upon the territory of the city. Such districts then contract in their own corporate capacity, and while the contracts may be for the benefit of people residing in the city, they become obligated in a different capacity than as the municipal corporation. It is well settled that the debts of the city and the debts of the district will not be aggregated in determining the borrowing capacity of either of them.¹ The formation of special districts often requires special legislation or special referendums, and is of little use in meeting emergencies. Not finding it convenient to create special districts, many cities have attempted to increase their capacity to contract obligations by having repayment made out of funds earned by municipally owned and operated utilities.

In order to use utility earnings as a means of evading debt limitations, the city may make use of a lease plus an option to purchase; a conditional sales contract; or of a bond issue payable out of the future earnings of the utility.

¹ Recent cases on the subject of obligations of special districts as a city indebtedness: *City of Dawson v. Bolton*, 166 Ga. 232, 143 S. E. 119 (1928); *State v. Curtis* (Mo.), 4 S. W. (2nd) 467 (1928); *Shelton v. City of Los Angeles* (Cal.), 275 P. 421 (1929).

If bonds are issued they are sometimes secured only by a pledge of future earnings, in other cases additional security is provided by a mortgage lien on the utility plant.

LEASES AS A MEANS OF EVASION

In the past, many cities have tried unsuccessfully to use the lease plus an option to purchase as a means of acquiring property in excess of their debt limit. In resulting litigation the courts have usually gone back of the evasion and disclosed the transaction as in fact a purchase.¹ The result of declaring the transaction a purchase has been to hold that the city had contracted an indebtedness for the full amount from the date of the execution of the lease.²

A recent Kentucky case involved an agreement made by the city of Corbin by which the city leased, with the option of purchase for one dollar at the end of the period of the lease, certain equipment for its light and water plant. The terms of the lease called for payment from the light and water revenues. The Kentucky Court of Appeals held that although the lease was in fact a purchase, it did not add to the indebtedness of the city because there was no obligation running against the city or against property owned by the city. In case of default all that could happen under such an arrangement would be the removal of the machinery by the company, which would also retain the rentals already paid. According to the court, the constitutional provision was for the purpose of protecting the property and general funds of the city, and it was not intended to cover cases where no general liability was assumed and where payment was

to be made out of a special fund.³ The case was thus distinguished from *Jones v. Rutherford*, decided by the same court the preceding year, in which the lease plus an option to purchase continued the general promise of the city to fulfill the terms of the lease. Since a general obligation was created, the lease was held to constitute a present indebtedness in violation of the constitutional limitation.⁴

The case of *Jones v. City of Corbin* introduces the distinguishing element of having the terms of the lease provide that it does not create a general liability against the city, but only a claim on the special funds produced by the leased property. While, as will be seen later, the same property could have been acquired by purchase under similar terms, the lease holds certain advantages over the purchase price mortgage if the city fails to fulfill its obligations.⁵ The ostensible lessor, would in most cases, prefer the lease to a sale, and the method seems to hold great possibilities as a legal way of evading city debt limitations.

CONDITIONAL SALES CONTRACTS

The conditional sales contract has very recently been employed as a means of allowing cities to use the proceeds of their utility plants for the purchase of new equipment without creating an "indebtedness." In this form of contract, legal title remains in the seller until the final installment is paid. Payment is made from the revenue of the plant and no general liability against the city is created.

³ *Jones v. City of Corbin* (Ky.), 13 S. W. (2nd) 1013 (1929). See also: *City of Bowling Green v. Kirby*, 220 Ky. 839, 295 S. W. 1004 (1927).

⁴ *Jones v. Rutherford* (Ky.), 10 S. W. (2nd) 296 (1928).

⁵ The process of re-possessing the property in case of default would, of course, be much easier under a mere lease agreement.

¹ E. McQuillin, *Municipal Corporations*, S. 2399 (1928).

² *Baltimore & O. S. W. R. Co. v. People*, 200 Ill. 541, 66 N. E. 148 (1927).

This form of contract was the subject of litigation in the states of Nebraska, Iowa, North Dakota, and Utah during 1929 and 1930.¹ The facts in the cases were similar: the city purchased, by a conditional sales agreement, utility equipment from Fairbanks, Morse and Company, which if construed to be an "indebtedness," would be beyond the city's power to contract. Payment was to be made from the revenues of the utility, and the company disclaimed the existence of a general obligation against the city.

The North Dakota contract provided that the city should construct the building and a distribution system and that Fairbanks, Morse and Company should furnish the equipment for an electric generating plant. The Supreme Court of the state declared: "Fairbanks, Morse and Company is so certain that an electric generating and distribution system under city control can be satisfactorily and profitably operated that they will furnish the necessary equipment and rely only on the net profits for payment and in case of default dispose of the equipment under rules regarding conditional sales agreements."² The court pointed out that under such an arrangement the city could hardly be injured by the transaction.

The courts in deciding the cases involving conditional sales agreements, emphasized the fact that the contracts were made in pursuance of the proprietary business of the city and ruled that a liberal construction of the city's powers in this regard must be made. The cases turned on the point that a conditional sales contract could not

create a debt for which a legal action would lie. The constitutional limitations were held to apply only to general obligations for which the courts would hold the city liable, and in the absence of such a legal liability a debt was not created by a conditional sales contract payable only out of utility earnings.

MEANING OF "MUNICIPAL DEBT" RESTRICTED

In order to hold that a conditional sales contract did not constitute a present indebtedness it was necessary to give a restricted meaning to the term "municipal debt." The courts were able to find ample authority for such a holding, the rule being well stated by the Supreme Court of Iowa: "A careful examination of the decisions discloses the fact that in substantially every jurisdiction the word 'debt or indebtedness' as used in the limitation placed upon municipal power, is given a meaning less broad and comprehensive than it bears in general usage."³

The willingness of one of the leading utility supply companies to enter into a conditional sales contract points out to the hard-pressed cities a method of obtaining equipment for their proprietary enterprises without adding to their "indebtedness." The conditional sales agreement is the latest, and to date the most successful method of evading the debt limit provisions in the purchase of equipment for the municipally owned utility.

BONDS SECURED BY MUNICIPAL UTILITIES

Sometimes money, rather than repairs or replacements, is desired, and a bond issue becomes necessary. In order to evade the debt limit, the income from a municipally owned utility

¹ *Carr v. Fenstermacher* (Nebr.), 228 N. W. 114 (1930); *Johnson v. City of Stuart* (Iowa), 226 N. W. 164 (1929); *Barnes v. Lehi City* (Utah), 279 P. 878 (1929); *Lang v. City of Cavalier* (N.D.), 228 P. 819 (1930).

² *Lang v. City of Cavalier*, *supra*, note 7.

³ *Swanson v. City of Ottumwa*, 118 Iowa 170, 91 N. W. 1051. Cited in *Barnes v. Lehi City*, *supra*, note 7. See also 17 C. J. 1371.

is pledged to pay off the bonds as they mature.

Many cities have issued bonds in order to obtain the purchase price of a municipal utility plant. The bonds may be secured by a mortgage on the property acquired and made payable from revenues derived from the operation of the plant. The rule in such cases has been stated by a leading authority as follows: "A municipality does not create an indebtedness by obtaining property to be paid for wholly out of the income of the property."¹ This rule has been very generally followed.² The city acquires no obligation other than to pay over the net revenues of the utility, and such an obligation is not within the scope of the debt limit provision.

The case of *Klein v. City of Louisville* presented this question to the Kentucky Court of Appeals, in connection with an issue of bonds for the purpose of erecting a toll bridge. The bonds, payable from the revenues of the bridge, were unsecured either by a general obligation against the city or by a lien on the bridge. The novel argument that even if the city did not become legally indebted, its good faith would be impugned if there was a default on the bonds, was presented to the court as a reason for applying the debt limit provisions of the city to the transaction. The court, however, refused to accept this plea, and held that no purchaser of the bonds could labor under any misapprehension as to the liability of the city, since the bonds themselves specifically declared that payment

would be made from the special fund only.³

On the other hand, if the purchase price is secured by a mortgage on property not obtained by the transaction, but on property which was already owned by the city, the Supreme Court of Illinois has held that an "indebtedness" within the purview of the constitutional limitations has been created.⁴ The Illinois court has also stated that a debt would be created where the obligation was not secured by a mortgage, but where holders of certificates would have the right to take and appropriate a preëxisting income of the city for their payment.⁵ The same court has pointed out that all obligations are in fact payable out of some fund and that it is immaterial that the obligation is payable out of a special fund if the city is the owner of that fund.⁶

A recent Colorado case, however, allowed a city to pledge the income from its light system for the payment of bonds without creating a "debt." The court held that, as the existing plant was not mortgaged, a mere pledge of its net earnings could not be sufficient to create a "debt," within the meaning of the constitutional restrictions.⁷

The Idaho case of *Feil v. Coeur D'Alene* held that the city could not obtain a light plant without creating an "indebtedness" if the revenues were pledged for more than one year. Such a pledge of future earnings, even

³ *Klein v. City of Louisville*, 224 Ky. 624, 6 S. W. (2nd) 1104 (1928).

⁴ *Leonard v. City of Metropolis*, 278 Ill. 287, 115 N. E. 8131 (1917).

⁵ *City of Joliet v. Alexander*, 194 Ill. 457, 62 N. E. 861 (1902).

⁶ *People v. Chicago, etc. R. R.*, 253 Ill. 191, 97 N. E. 310 (1911).

⁷ *Searle v. Town of Hartum* (Colo.), 271 P. 629 (1928).

¹ E. McQuillin, *op. cit.*, S. 2389.

² *Larimer Com'rs v. Fort Collins*, 68 Colo. 364, 189 Pac. 929 (1923); *Evans v. Holman*, 244 Ill. 596, 91 N. E. 723 (1910); *Butler v. Ashland*, 113 Ore. 174, 232 Pac. 655 (1925); *Winston v. City of Spokane*, 12 Wash. 524, 41, P. 88 (1895); *Dean v. Walla Walla*, 48 Wash. 75, 92 P. 895 (1907). See also: 44 Corpus Juris, S. 4064.

though there was no mortgage against the plant or no general obligation against the city, constituted a debt within the meaning of the Idaho constitution.¹ In Pennsylvania it has been held that a borough could not obtain a water and light plant to be paid for solely out of earnings of the plant, payment to be secured by a mortgage on the acquired property, without creating an indebtedness. The court pointed out that, while it might be argued that the borough assumed no liability and could not be injured by the transaction, it could lose the purchased property, any money paid out under the contract, and any improvements it might have made on the property. "To rule that such a transaction did not add to the indebtedness of the borough," declared the court, "would annul the constitutional restriction on improvidence and remove the chief safeguard against municipal profligacy."²

FUTURE OF MUNICIPAL OWNERSHIP INVOLVED

The frequency with which the question of the pledging of utility earnings, in order to increase a city's ability to contract obligations, has been presented to the courts in the last few years shows that the problem is of great and present importance. An examination of recent cases discloses the appearance before the court of a number of attorneys as *amici curiæ*, including representatives of the state leagues of municipalities. Private and public utility interests have recognized that the future of municipal ownership will be vitally affected by the construction the courts place upon city debt limit provisions.

¹ *Feil v. Coeur D'Alene*, 23 Ida. 32, 129 Pac. 643 (1913.)

² *Lesser v. Warren*, 237 Pa. St. 501, 85 Stl. 839 (1912).

The cases holding that obligations payable out of special funds are part of a city's "indebtedness," although in the minority, seem to be supported by sound legal reasoning. The holding is based largely on the theory that the governing fact is that the city is, or will be, the owner of the fund which is to be appropriated for paying the obligation. Even if the improvement is not paid for out of tax money, the general funds of the city will be used for purposes for which the special fund might have been used. In other words, the total obligations of the city are increased, regardless of whether payment is to be made from the general or a special fund. It is plain that there is considerable logic in making the ownership of the fund the controlling factor.

Cases holding the contrary view are best justified in the light of the principle of non-interference with the proprietary business of the city wherever possible. In order that an efficient conduct of the municipal enterprises be secured, there must be a minimum of interference. Public interest demands that the utilities do not cease to operate for lack of repairs or because of an inadequate plant. No matter how unwise the city may have been in acquiring debts up to the limit of its capacity, the courts in a majority of states will aid the city in escaping the consequences where their proprietary businesses are concerned. Relief has been obtained in some cases by the formation of special districts which are not subject to the debt limitation of the city, in other cases by acquiring obligations to be paid out of special funds. As municipally owned utilities increase in number and importance, there will no doubt be a greater tendency to use the earnings of these utilities as a means of increasing the borrowing capacity of the cities.

The extent to which the courts will go in ruling that such obligations do not increase a city's "indebtedness" shows a recognition of the impracticability of fixed or rigid debt limits in connection with the proprietary enterprises of the city. Although it may be

dangerous to allow officials to pledge the future earnings of municipally-owned utilities without restraint, it is more dangerous to leave a city without certain essential services because of a strict application of debt limit provisions.

THE MASSACHUSETTS BILLBOARD CASES

BY ALBERT S. BARD

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The master appointed by the Supreme Court of Massachusetts makes his report—a victory for foes of the billboard. :: :: :: ::

HEARINGS in the fifteen billboard cases, involving twenty-three complainants, consolidated into a single proceeding before the Supreme Court of Massachusetts and referred by it to Frank H. Stewart, Esq., as master, to take evidence and report back to the court, began August 16, 1926. The taking of oral testimony, proceeding on more than 100 days, was concluded on August 16, 1929. Thereafter the master spent five days in traveling 1,000 miles with counsel in order to take a view of the boards. On June 2, 1931, he filed his report.

Briefly summarized, the master finds, among other things, that the rural billboard is a distraction as well as an obstruction to vision, and therefore a menace to traffic; that in residential neighborhoods such commercial intrusions as signs and billboards are offensive and obnoxious to reasonable persons, and seriously depreciate property values; that such intrusions are damaging to places which are frequented by the public chiefly on account of their beauty or historic interest; that such intrusions are

damaging to the public welfare by reason of their damage to the scenery and to the amenity of places and to property values; that the restrictions and regulations framed by the Massachusetts division of highways, acting under the police power of the state, were framed with these considerations in view and are reasonable in themselves; that in so far as æsthetic elements have entered into such restrictions and regulations, they have "a real and economic value to the Commonwealth and to its citizens"; and that such restrictions and regulations may reasonably be applied to existing boards not conforming to the later and more restrictive regulations, although it means that a large proportion of existing boards must be moved.

The master summarizes the outdoor advertising situation in these words:

There is a widespread dislike for signs, billboards and other outdoor advertising devices not only in this Commonwealth but throughout the country. The chief grounds for this dislike are that they are unsightly in appearance, and offend the sense of sight in the same manner as other objectionable things offend the senses of

hearing and smelling; that they disfigure or mar landscapes; that they intrude commercialism into, and injuriously affect, places of residence, natural beauty and historic interest; and that they create traffic hazards. It appeared in evidence that in every state in the Union there is some statute, ordinance or other form of regulation dealing directly or indirectly with outdoor advertising.

The report states that the stenographic record consists of more than 9,000 pages; that more than 4,200 exhibits were received; that the written and printed requests for special findings of fact numbered more than 1,800; and that he had also considered 650 pages of briefs submitted by counsel. These figures will indicate the thoroughness with which the case has been prosecuted, and will suggest that when the court comes to a consideration of this record, it may feel a natural reluctance to disturb the master's findings of fact.

The following extended summary of the master's report constitutes a fairly adequate review of the principal findings. The findings embrace a certain amount of statistical information relating to the outdoor advertising business in Massachusetts, as well as conclusions regarding the nature of and public attitude toward the business and the efforts to regulate it.

WHAT MASSACHUSETTS BILLBOARD REGULATIONS PRESCRIBE

1. The Massachusetts constitutional amendment of 1918, granting the power to regulate and restrict advertising in public places and on private property within public view, was adopted by a popular vote of more than two to one (193,925 to 84,127) and was the largest affirmative vote cast upon any of nineteen amendments. By chapter 545 of the Acts of 1920 the Massachusetts legislature delegated to the division of highways of the department of public works the authority to

control and restrict billboards, signs and other advertising devices. The original regulations by the three commissioners constituting the division of highways in the department of public works were promulgated in December, 1920. Six months later a new set of rules were promulgated on July 1, 1921. On January 24, 1924, the present rules (claimed by the billboard industry to be confiscatory and unconstitutional) were promulgated.

Among the restrictions laid down by the Massachusetts commissioners are the following: That no board shall be erected within 300 feet of any public park or reservation (subject to exception, under special restrictions, in the case of electrical signs erected on buildings); or within 50 feet of the boundary line of any highway or within 50 feet of another board unless they are placed back to back (subject to exception in business districts); or within a radius of 150 feet of the point where the center lines of two or more public ways intersect (subject to exception in business districts); or "near certain public ways where, in the opinion of the division, having regard to the health and safety of the public, the danger of fire, and the unusual scenic beauty of the territory, signs would be particularly harmful to the public welfare"; or in any block where half of the buildings on both sides of the street are used exclusively for residential purposes (subject to exception on consent of the owners of a majority of the frontage); or where the visibility of other signs is obstructed; nor may any sign be painted directly upon the wall of any building. The original regulations of 1924 provided further that, except in business districts, signs containing more than 32 square feet must be set back at least 100 feet from the street or highway line; if over 25 feet long by 12 feet high (the standard size

of the poster board of the organized industry) they must be set back at least 300 feet; and no boards may exceed 50 x 12 feet, except that boards 40 x 15 feet may be permitted if set back 300 feet. Subsequently, this limit on maximum size was applied to business districts also. (These restrictions are very mild. They permit the standard poster board, 25 x 12 feet, to come within 100 feet of the highway anywhere, and nearer in business districts.) There is also a general provision that "all billboards, signs or other advertising devices shall be of such dimensions and material as the Division may prescribe."

EXTENT OF INTERESTS INVOLVED

2. On January 1, 1924, the complainants (the organized billboard companies involved in the suits) had 9,125 outdoor advertising signs of all kinds, with lands, leases, permits, supplies, repair shops, offices, etc., in Massachusetts. The estimated market value of the entire property was \$5,000,000. The gross annual rentals paid by the complainants for locations for their boards amounted to about \$250,000. (For 9,125 boards this would average \$27.40 per board, running from whatever rental is paid for the privilege of erecting the \$35,000 Chevrolet sign overlooking the State House and Boston Common, and the other city locations for which large sums are paid, down to the few dollars per year paid to the farmer.) The number of boards maintained by others than the complainants, but similar in character, was about 4,000. The total number of signs and boards of all descriptions was about 117,000. About 85 per cent of all signs advertised goods or products sold on the premises and were without permit (none required). The business of the complainants is preponderantly poster-boards. Posters are of three

standard sizes, 4 x 8 feet, 10 x 11 feet, and 20 x 9 feet. The latter are placed on the standard boards 25 x 12 feet.

3. When the present regulations were adopted by the commissioners, 5,829 applications for permits were pending, the large majority of which did not comply with such new regulations and remained ungranted. Also between 75 per cent and 90 per cent of all then existing boards (which held permits under previous and more liberal regulations) did not conform to the new regulations and required removal or relocation under the new rules. This class included 96 per cent of the complainants' then existing boards. (This would seem to indicate that a higher percentage of "organized" than "unorganized" boards did not comply with the new restrictions deemed desirable by the commissioners.) The complainants claimed that the new regulations would destroy 80 per cent of the market value of their boards. None of this loss has in fact been suffered as yet, for the complainants have continued their boards without compliance with the newer regulations, in which course they have been protected by the injunction issued by the court. When the present (1924) regulations were adopted 52 persons, firms and corporations were licensed to engage in the outdoor advertising business, *i.e.*, the 23 complainants and 29 others. Some 400 others, not engaged in the outdoor advertising business, held licenses to erect and maintain boards carrying their own advertisements.

4. The new restrictions of January 24, 1924, moved in the direction of increased fees for permits, substitution of the criterion of scenic beauty for the prior designation of certain restricted highways (both groupings included many of the same highways), increased restrictions in residential districts, in-

creased set-back requirements, specific limitation on size, and the subjection of locations then under permit to the new rules. A certain leeway was given to boards complying with former regulations, but which did not conform to the newer regulations.

NEW RULES APPEAR REASONABLE

5. Since the new rules went into effect the complainants have taken out 1,400 permits which comply with the new rules. Of these, 900 were renewals of permits where old boards already complied with the new standards, and 500 were for new locations, likewise for conforming structures. The master finds that these conforming boards are in active demand and use, and afford an effective means of advertising. (This seems to be a complete answer to the claim that the new rules impose unreasonable restrictions in themselves. The only point would seem to be whether the state might require existing non-conforming structures to conform to the new rules.)

6. In answer to the last question the master finds "that under all the circumstances a readjustment of their signs, billboards and locations of the same *could be reasonably made* by all permittees to meet the requirements of the new rules and regulations." The complainants own about 7,700 non-conforming signs, some of which have never received any permits either under the former rules or under the new. (Of course, in any view, the latter class, whether few or many, are outlaw boards. They have never been legitimate.)

7. Since April, 1924, the commissioners have licensed no ground boards or signs over 50 x 12 feet or 40 x 15 feet (600 square feet) except electrical display signs, whether in business or non-business districts. Since June, 1924, the same limitation has been placed on roof signs (these all in business dis-

tricts). Nor have they issued permits for boards within 50 feet of corners, even in business districts.

8. "The large majority of all the signs and billboards in the Commonwealth are erected and maintained without regard to standards of size or of safety in construction, locations of, or maintenance."

9. "The total number of original applications for permits filed between January 1, 1921, and December 1, 1928, were 16,094" (approximately 2,000 a year on the average, or about 40 a week). It is not clear whether or not renewals are included in the term "original applications." Of the permits issued since the new regulations were promulgated (January, 1924) 95 per cent have been in business districts and 5 per cent in districts of a non-business character.

BILLBOARDS AND PROPERTY VALUES

10. "It was agreed by counsel for all parties that signs and billboards when erected or maintained in districts of an indisputably business character have no depreciating effect on property values." (Unless qualified this seems to be an admission contrary to fact. It may be true if the boards are few. It is distinctly not true when they are numerous. Boards cheapen any district, because they look cheap. One need only contrast the values of that paradise of advertising, Broadway, New York, with the values of Fifth Avenue, where there are no boards. And yet the advertising on Broadway is the most expensive in the world, being for the most part electrical, with comparatively few cheap boards. An analogous situation is that of signs overhanging the sidewalk. Overhanging signs cheapen a street. The effect of a few might be unappreciable, but any general use of them indicates an inferior street.)

11. "I find that in a neighborhood of homes, such commercial intrusions as signs and billboards, when erected and maintained, are offensive to the sight, and obnoxious to ordinary reasonable persons, who may own or occupy those homes. Because of the serious aversion thereto, such signs and billboards substantially and materially annoy and disturb the occupants and interfere with the comfortable enjoyment of their homes. The introduction of signs and billboards into such a neighborhood tends seriously to injure, and depreciate, the value of the property there located.

"In urban districts of a mixed character, which are neither distinctively business nor distinctively residential, the effect of signs and billboards is rarely, if ever, seriously objectionable to the occupants of houses, or appreciably detrimental to property values." Perhaps this amounts to saying that in such districts the cheapening effect of boards, even where numerous, is lost in a general atmosphere of cheapness and that today the boards are accepted, without protest, as inevitable. Such mixed districts are (with rare, if any, exceptions) inferior to those either wholly business or wholly residential.

"In rural communities, when signs or billboards are located in proximity to homes not occupied by persons deriving revenue from such signs, I am unable to find upon the evidence that they are less obnoxious than in a community of homes elsewhere, regardless of whether or not such homes are occupied permanently by country folk, or by city dwellers who take up transient summer residences in such communities.

"In districts of a distinctively open or sparsely settled character, signs and billboards appear to have no appreciable adverse effect upon property values, except when in close proximity

to, or in view of, residences not occupied by persons deriving revenue from such signs." (These comments by the master suggest that it might be an interesting experiment for someone to offer a prize to the person who could discover a billboard erected by a billboard man or a national advertiser in the neighborhood of his own home, even where it produces a revenue.)

BILLBOARDS AND LAW-BREAKING

12. "In some isolated cases, certain signs and billboards in this Commonwealth have been used as screens to commit nuisances, hide lawbreakers, and facilitate immoral practices. Around some few filth has been allowed to collect, and some have shut out light and air from dwelling places. In and around others, rubbish and combustible materials have been allowed to collect, which to some degree tends to create a fire hazard. Those instances were all so rare, compared with the total number of signs and billboards in existence, that I am unable to find upon the evidence that signs and billboards, in general, as erected and maintained in this Commonwealth, have screened nuisances, or created a danger to public health or morals, or facilitated immoral practices, or afforded a shelter for criminals, or created or increased the danger of fire, or hindered firemen in their work.

"The complainants maintain a system of regular inspection of their signs, billboards and locations, with a view to their proper maintenance, and to prevent and abate nuisances of all kinds in and about them. No advertising matter is permitted to be displayed upon complainants' signs or billboards which is obscene or offensive to public morals. The copy thereon is designed to be attractive, and aspires to some degree of artistic merit."

(Of course a design, delightful and

artistic when considered by itself, when enlarged and set up in the middle of a landscape to convey a purely commercial message, ceases to be either delightful or artistic. Its incongruity has become its dominant quality. As art it is merely contemptible. This is one reason why the public dislikes billboards.)

TRAFFIC MENACE

13. On the subject of traffic danger the report says: "The heavy increase of swiftly moving traffic upon the highways, and the steadily increasing number of fatal and other highway accidents, were matters of much concern to the commission, and were among their reasons for undertaking in 1923 the revision of the rules and regulations respecting outdoor advertising, in the interest of public safety. (The 1924 rules were the result of the 1923 study.) The records of the division also tend to show that a large number of motor accidents upon the highways are due to inattention, and the records of certain insurance companies in evidence noted accidents as due to that cause.

"As outdoor advertising is conducted in this Commonwealth at the present day by the complainants and others, it is chiefly designed to attract the attention of motorists and other travelers upon the highway. The commission believed that billboards and other advertising signs, as thus commonly placed within public view along the highway, were to a greater or less extent distracting, and were, therefore, traffic hazards. In the interest of public safety, the rules were accordingly designed to afford protection, especially in districts of a non-business character, to all travelers upon the highway, whether vehicular or pedestrian, by requiring that signs, billboards and other advertising devices be limited in size, and that they be set

back from the line of the highway a distance which would not be beyond the clear normal vision of travelers generally. I find that such restrictions tend to promote public safety.

"In thickly congested districts, where signs and billboards are commonly most numerous, they compete for attention with so many other objects that they rarely, if ever, tend seriously to distract the attention of drivers of vehicles from the business of driving safely. Only in certain special locations, or where some spectacular sign or billboard, or one with other unusual features, presents a peculiar allurements to drivers, can it properly be said that they tend directly to affect the safety of travelers upon the highway. Passing from congested to sparsely settled or open sections, the element of distraction, if any, to the driver of a vehicle, depends upon the degree of allurements that any particular sign or billboard may normally present, either in or of itself, or because of its location. When located at or near curves, or at or near intersections of avenues of travel, or underpasses or bridges, signs or billboards tend to obstruct or obscure the view of the road ahead, or of curves and grades, or intersecting roads or railroad crossings, and tend to divert the attention of drivers of vehicles. The complainants and others, both before and since the adoption of the rules and regulations, erected and have maintained signs and billboards within public view in such locations. As there located, they tend directly to increase the danger to travelers upon the highways. When signs or billboards are so placed, upon other locations, that they may be seen and read, without unduly withdrawing the attention of a reasonably careful driver from the business of driving safely, the danger, if any, to travelers is much less."

Later, in connection with the Concord cases, the master said: "I find that the rules and regulations tend to promote public safety when they require that signs, billboards and other advertising devices be limited in size and set back from the line of the highway a distance which would not be beyond the clear normal vision of travelers generally."

(The master here concerns himself only with the direct distraction of the particular sign. He omits to comment upon either the direct interference of the particular sign with neighboring *official* signs (a very frequent interference on many highways) or upon the secondary effect of a multiplicity of signs—the indifference to all signs which that multiplicity breeds, a point which has led the commissioner of motor vehicles in Connecticut to favor the elimination even of many of the *official* highway traffic safety signs erected by the state, upon the ground that drivers become indifferent to important warnings when there are so many, important and unimportant.)

ÆSTHETICS

14. *Æsthetic* considerations were also taken into account: "The commission in framing the rules and regulations took into consideration the fact that within this Commonwealth are many sections of historic interest and importance, also many abounding in fine natural scenery and landscape views, including highways, parks and reservations, the benefits and enjoyment of which have been made available for and accessible to the public by the expenditure of many millions of dollars of public monies, either through the commission itself or by other public agencies; that these sections and locations naturally and constantly attract and interest many visitors from within and without the Commonwealth; that,

as the commission believed, they had become a source of profit, as well as of pride, satisfaction and enjoyment to the citizens of the Commonwealth. The commission considered it important to preserve and maintain these places, in their popularity and naturalness, in the interest of public welfare. The commission also took into consideration the fact that throughout the cities and towns of the Commonwealth there had been manifest a determination to combine utility with beauty through comprehensive zoning laws, planning boards and other agencies, all having for their declared object the establishment and maintenance of areas which should be pleasant, agreeable, attractive and free from commercial intrusion. The commission considered that signs and billboards were inappropriate in regions, areas and communities where they disfigured, marred or injuriously affected the natural beauty of the landscape, or the pleasant or agreeable situation, prospect, view, or surroundings of places which are of interest chiefly by reason of their attractive or picturesque character, and in places which are frequented by the public chiefly on account of their beauty or historic interest, and in places where signs and billboards were likely to affect injuriously the enjoyment of the public. In framing regulations restricting signs and billboards in such sections, places and communities, it was the express intention and purpose of the commission to adapt them to these enumerated conditions and prevailing sentiments of the people in favor of increasing restriction, and in so far as the law would allow, to prevent these intrusions. Accordingly, section 4B (Exhibit F) prohibiting billboards, signs and advertising devices within 300 feet of any public park or reservation, if within view of any portion of the same, was adopted with

the purpose, so far as practicable, of keeping the situation and surroundings of public parks and reservations, including playgrounds, in harmony with the purposes for which such places were constructed and maintained, and to preserve or enhance their attractiveness, picturesque character and beauty, in the interest of public welfare as the commission viewed it. The commission likewise, and for the same reasons, adopted Section 6A making the factor of 'scenic beauty' in other locations an element in determining when a permit should be refused by them, being of the opinion that beauty in that sense had great economic value to the Commonwealth and to its citizens. . . . I find that beauty in the sense intended and employed in the framing and administration of said rules and regulations has, in fact, a real and substantial economic value to the Commonwealth, and to its citizens."

15. Certain of the regulations as to advertisements on fences, poles and walls were based in part on the purpose of exercising full supervision over the use of their permits by the holders and to "avoid legal entanglements which might arise if the advertising matter became permanently attached to the real property of third persons" (not holders of permits, but whose property the advertisements might become). "Also, this restriction was adopted in order to avoid the unsightliness and disfigurement of such advertising." (*Æsthetics as an auxiliary factor.*)

COMMISSIONERS HAVE ACTED
REASONABLY

16. In framing the regulations of January 24, 1924, "the commissioners were exercising their best judgment in an attempt properly to perform the functions delegated to them by the legislature," *i.e.*, to conserve the public health, safety and welfare; and this was

done after hearings upon the subject and after independent study. After stating the reasons of the commission for adopting certain specific regulations, the master continues: "I am unable to determine upon the evidence, with more particularity, the reasons which the commission had, at the time, for adopting the provisions of each of the other rules and regulations not hereinbefore specifically mentioned. I am satisfied, however, upon all the evidence that in framing those new rules and regulations, they took into consideration, and were influenced by, the many objections which had been made from time to time against signs, billboards and advertising devices, together with the facts and circumstances appearing in reported cases on outdoor advertising, especially the Cusack case, *supra* (*Thomas Cusack Co. vs. Chicago*, 242 U. S. 526) and cases there cited, as well as by their own observation, study and experience; and that they endeavored, by placing the special restrictions upon the size and location of signs and billboards as set out in these new rules and regulations, to lessen in this Commonwealth any detrimental effects of such structures and their uses upon the public safety, health and general welfare.

"The commissioners, in adopting and administering the rules and regulations, and also in acting upon applications for permits or renewals of permits thereunder, intended as a general policy to restrict signs, billboards and other advertising devices when within public view, chiefly but not exclusively to districts of a business character for the purpose of promoting the public safety, health, morals and general welfare as they in their judgment and discretion might determine the circumstances required. In practical operation, the rules and regulations were always applied impartially by the

commission to all members of a class, and no favoritism, discrimination or special privileges were ever shown, granted or permitted."

SPECIFIC CASES

17. The New Bedford Hathaway case. After granting three permits to the Hathaway Advertising Company for larger roof signs in business districts than the size afterwards prescribed, the commissioners refused to grant a fourth permit and announced its rule limiting such signs to the same size as ground signs. The complainant complains of this change, and also of the refusal of the commissioners to issue renewal permits for the three signs which are now oversize. The master merely reports these facts for the decision of the court.

18. The Concord cases. All three cases involve boards legal when erected but which violate the 1924 regulations as to size and set-back. They all also violate the Concord town ordinance adopted after the erection of the boards. The cases differ only in respect of the reasons given by the commissioners for refusing renewal permits. In one case the commissioners based their refusal upon the fact that the board violated their new regulations. In the second case the refusal was based upon the fact that the board violated the Concord ordinance. In the third case no reason was stated. The permit was just refused.

With respect to these the master says: "Although I find that the rules and regulations tend to promote public safety when they require that signs, billboards and other advertising devices be limited in size and set-back from the line of the highway a distance which would not be beyond the clear normal vision of travelers generally, yet I am unable to find upon the evidence before me that either of these particular signs or billboards as located

and maintained in the town of Concord tends seriously to affect the safety of travelers upon the highway, or unduly to withdraw the attention of a reasonably careful driver of vehicles from the business of driving safely. Nor can I find upon the evidence before me that these particular signs or billboards are appreciably detrimental to property values in the sections in which they are located."

(The master's report on the Concord cases wholly overlooks the same two points which he overlooks generally, as noted in 10 and 13 above; (1) the difference between a few signs and a multiplicity of signs, where a difference of degree becomes a difference of kind; and (2) the indirect effect of a multiplicity of signs, viz., an indifference to the message of all signs, including safety signs.)

19. The Chevrolet sign overlooking Boston Common. This roof sign is an electric sign 85 feet long and 65 feet high, erected at an original cost of \$35,000, for which the Chevrolet Company pays \$1,000 a month to the owner. Later the Chevrolet Company rented a single room in the building to be "used as a meeting place for salesmen and their prospective customers." (Obviously a rather thin effort to make the sign relate to business conducted on the premises.) The original erection was licensed by the commissioners. Upon expiration of the license renewal was refused. The sign is still up, protected by the injunction. The sign violates none of the commissioners' regulations except the subsequent regulation that roof signs shall not exceed ground signs in size. Its location is obviously offensive to many, and there have been many protests.

IN CONCLUSION

In view of the master's findings that the 1924 regulations are reasonable in

themselves, and are framed for the purpose of protecting the health, safety and welfare of the public; that they do in fact promote that health, safety and welfare; and that a readjustment of non-conforming signs can be reasonably made to comply with the newer regulations, it would seem as if the Supreme Court of Massachusetts should sustain the regulations and their application to the billboard companies; in other words, that the court should dissolve

the injunctions which now prevent the Massachusetts authorities from enforcing the 1924 regulations. This would seem to be a proper legal decision in any jurisdiction where like regulations are imposed under the police power of the state. Especially would it seem to be a proper decision in Massachusetts where control of outdoor advertising within public view has been expressly brought within the police power of the state by constitutional amendment.

RECENT BOOKS REVIEWED

Municipal Reports.—ATCHISON, KANSAS. *Annual Report, 1930.* By A. W. Seng, City Manager. 36 pp.

AUBURN, MAINE. *Annual Report, 1930.* By F. W. Ford, Jr., City Manager. 59 pp.

OREGON CITY, OREGON. *Report of Municipal Activities, 1930.* By J. L. Franzen, City Manager. 60 pp.

ALAMEDA, CALIFORNIA. *Thirteenth Annual Report.* By Clifton E. Hickok, City Manager. 81 pp.

CINCINNATI, OHIO. *Municipal Activities, 1930.* By C. A. Dykstra, City Manager. 107 pp.

FORT WORTH, TEXAS. *Progress of Fort Worth, 1930.* By O. E. Carr, City Manager. 49 pp.

It is interesting to observe that while the first three reports, considered as a group, are about equal in merit, they vary greatly in certain particulars. Not one places any emphasis upon important facts throughout the text, but Atchison partly redeems itself by summarizing certain financial statistics in the first part of the report. The harassed taxpayer of 1931 should view with no little pride the fact that the bonded debt had been reduced by more than one-half in the past ten years, the period, by the way, that council-manager government has been in effect in Atchison. He will read further with satisfaction that the city tax rate over this period has declined from 20 to 13.95 mills, while the school rate increased from 11.55 to 12.50, and the state rate from 1.40 to 1.95.

The Auburn report contains an excellent summary from which the busy reader gleans with little difficulty that his municipal officials collected 94 per cent of the tax levy; ended the year with a cash surplus of \$13,000; kept the tax rate at \$36 per \$1,000; had a fire loss of \$3.03 per capita; held the infant mortality rate to 97.9 (a doubtful record); and last but perhaps not least in importance "had fewer arrests but more convictions."

The Oregon City report fails to make a very definite impression. No facts stand out to challenge the reader's interest. Aside from one chart on bonded indebtedness the report is void of any graphical attempts to portray the data contained in tedious tables.

Guiltily alike are all three cities in failing to report police activities in an intelligible man-

ner: Atchison classifies her arrests beginning with "vag" and ending with "runaway girl"; Auburn does likewise, except her classification begins with "assault" and ends with "violation of the Sunday law"; while Oregon City gives a table of figures beginning with "intoxication" and ending with "drugs," and leaves the reader to guess whether the numbers given refer to offenses or arrests. So far as the first three reports of the above group are concerned, the Committee on Uniform Crime Records might as well not have published its Guide for Preparing Annual Police Reports.

The last three municipal reports here reviewed are in many ways similar. In their physical make-up they are very much alike: all are of the standard size, 6 x 9, printed on a good quality paper in legible type, and equally attractive. All three, however, fail to emphasize the important facts, the assumption apparently being that all the information is of equal importance. The illustrative material is of an unusually high order, Fort Worth falling a bit low in comparison because its few charts are too complicated and are without suitable titles. All three contain convenient tables of contents, organization charts, and a brief résumé of outstanding accomplishments for the year. On the whole, the space allotted to the different activities is well balanced, with the possible exception of the Fort Worth report which attempts to dispose of the police department in eleven lines. Speaking of reporting the police activities, it is worthy of mention that none of the reports give the total number of offenses together with the percentage cleared, which is the most reliable basis for judging the effectiveness of police work. In this connection, there is very little information in any of the reports on which to form a judgment of the quality of government services without making certain computations.

It is evident, however, that no concealment of facts is attempted. For example, the infant mortality rate for Alameda is given at 26.2; for Cincinnati, 65; and for Fort Worth, 66. The per capita fire losses for the year in the three reports are given as \$1.75 for Cincinnati, \$2.50 for Alameda, and \$5.82 for Fort Worth. Actual fire losses would have been more clearly presented

had the loss been expressed as the percentage of burnable property rather than on a per capita basis. Expenditures for the year, which, of course, do not afford a sound basis for comparison, are nevertheless interesting. From the total expenditures given the reviewer computed the following per capita figures: Fort Worth, \$19.30; Cincinnati, \$21.20; and Alameda, \$25.55.

There is little justification in going to the expense of preparing and publishing an annual report if it does not give the citizens of the city the facts upon which they can appraise the quality of their governmental services. It is

a bit discouraging to note that these reports, though of an exceptionally high character, contain very little data of appraisal value and even less comparative statistics for previous years, so that trends might be indicated. It is hoped that the recent report published by the National Committee on Municipal Reporting and the work now being done by the National Committee on Municipal Standards will in time bring about a very decided improvement in this phase of reporting.

CLARENCE E. RIDLEY.

The University of Chicago.

REPORTS AND PAMPHLETS RECEIVED

EDITED BY EDNA TRULL

Municipal Administration Service

Report on Proposed Park Reservations for East Bay Cities (California).—Bureau of Public Administration, University of California, 1930. 40 pp. In 1928 the nine cities bordering the east shore of San Francisco Bay purchased a large tract of land for the purposes of the East Bay Municipal Utility District. A preliminary survey showed the extra land to be suited for park and recreation facilities. The services of landscape architects and the National Park Service were then secured and the area was studied from the viewpoint of possible use, value compared with other potential park property, and the park needs of the communities concerned. The report, which is very well illustrated, shows the advisability of using some of this territory for park area and recommends this action. (Apply to Bureau of Public Administration, University of California, Berkeley.)

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Report of the Survey of Atlantic County Government.—Atlantic City Survey Commission, 1930. 119 pp. At the request of the Board of Freeholders, the Commission conducted an administrative and budget survey the result of which is this critical analysis with a view to improved service and reduced cost. The following phases of the government are discussed: Organization of the county budget, accounting procedure, capital expenditures, reporting, purchasing, insurance, motor transportation, board of taxation, clerk of the board of freeholders,

solicitor, engineer and road supervisor, asylum, almshouse, tubercular sanitarium, detention home, library, county clerk's office, surrogate's office, probation office, sheriff's office, jail, prosecutor's office. The report limits itself to recommendations which might be applied immediately by the Board of Chosen Freeholders and thus effect substantial budget reductions for the current year. (Apply to Atlantic City Survey Commission, Schwelm Building, Atlantic City, New Jersey. Price, \$2.00.)

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The Social Survey.—Shelby M. Harrison. Russell Sage Foundation, 1931. 42 pp. When the Department of Surveys and Exhibits published its Bibliography of Social Surveys it included an important introduction by Mr. Harrison explaining the idea and practical value of *The Social Survey* with a brief history and discussion of the recognizable trends in this type of work. The significance of this introduction, apart from the studies listed, warrants this special edition for general distribution. (Apply to the Russell Sage Foundation, 130 East 22nd Street, New York City. Price, 25 cents.)

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Report of the Minneapolis Survey Commission.—1931. 7 sections, 244 pp. Almost two years ago Mayor Kunze appointed a commission of fifteen citizens "to make a comprehensive study and survey of the city government with a view to ascertaining whether municipal business

procedure may be improved, simplified and made more efficient." The commission organized to study business aspects of organization and administration, accounting, purchasing, finance, personnel and public works and engineering with the assistance of citizens skilled in the fields to be surveyed. These separate committee reports are briefly summarized and are also separately available. The entire report of the commission is based on the opinion that the tax burden should be reduced. It is noteworthy that a number of the proposals of the committees were effected by coöperation with the city officials even before the reports were published. (Apply to Minneapolis Survey Commission, City Hall, Minneapolis, Minnesota.)



Building Code.—National Board of Fire Underwriters, 1931. 316 pp. To keep abreast of changing conditions and new developments in the building industry this standard code has again been revised. It incorporates the latest thought in building construction for the prevention of fire as well as protection against it. It is urged that the code be used in conjunction with the Suggested Fire Prevention Ordinance. (Apply to National Board of Fire Underwriters, 85 John Street, New York City.)



Codify Your Local Ordinances.—Bureau for Government Research, West Virginia University, 1931. 9 pp. Among the services this Bureau renders to municipalities special emphasis is laid upon the codification of ordinances. Chapter headings for a "model" administrative code appropriate to small West Virginia municipalities are given and there is pointed out the value of a "compact code published in permanent form kept up to date and indexed for accurate use." (Apply to Bureau for Government Research, West Virginia University, Morgantown, West Virginia.)



License Taxes in Virginia Municipalities.—Municipal Reference Bureau, League of Virginia Municipalities, 1931. 3 studies, 59 pp. The bulkiest of these studies lists by cities the taxes imposed on amusements. The second pamphlet deals with taxes on hawkers, peddlers, and itinerant merchants. Besides listing the amount charged this report explains the administrative and legal aspects of this type of license tax. The third study is a listing of taxes imposed in

Virginia on abattoirs and butchers. (Apply to Municipal Reference Bureau, League of Virginia Municipalities, Travelers Building, Richmond, Virginia.)



The Growth of a City Government.—Lent D. Upson. Detroit Bureau of Governmental Research, 1931. 22 pp. Dr. Upson has listed the activities of the government of Detroit in the order of their appearance as separate units. Statistical data covering the period 1824 to 1931 is given on population, area, assessed value, governmental activities, taxes and debt. He has also grouped these activities in nine major functions, with subdivisions according to service, activity and phase of activity. This study serves as an analysis of work and should be used for budget estimates, accounting control and as a basis for formulating a work program which recognizes the limitations of public expenditure. It should facilitate the logical organization of the tasks of government. Incidentally, it makes possible the tracing of the development of a typical city government. (Apply to Detroit Bureau of Governmental Research, Detroit, Michigan.)



Report of the State Board of Housing.—Albany, New York. 1931. 71 pp. The New York Board of Housing reports progress. When present construction under the law is completed 1,711 New York City working class families will be housed in modern buildings superior to other current accommodation in planning and use of the site, construction and design, at rentals with a maximum of \$12.50 per room. It is noteworthy that the feasibility of operation under the law has been sufficiently proved to cause commercial builders to enter the field. The report presents also a study of cost of living of the 400 families in the Amalgamated Housing Corporation apartments in the Bronx, including the earnings and expenditures under the family budget. Tables are given on the maintenance costs of housing projects undertaken since 1925. One section is devoted to statistics of assistance to persons interested in forming limited dividend companies for low cost housing construction under the law. (Apply to Secretary of State, Albany, New York.)



A 10-Year Plan for Public Improvement in Kansas City.—Civic Improvement Committee, 1931. 57 pp. with maps and diagrams. This is a volume of facts prepared to assist speakers

presenting the long-term financial plan to the voters of Kansas City and Jackson County, Missouri. It summarizes 16 city and 4 county proposals, totaling an expenditure of \$40,000,000. Besides the Committee of 1,000, a number of influential organizations support the plan. The little book of material used to explain the plan is especially interesting in view of its success at the polls. (Apply to the Civic Improvement Committee, City Hall, Kansas City, Missouri.)



Annual Report.—Bureau of Health, Trenton, 1931. 99 pp. In the letter of transmittal of his 1930 report, Health Officer A. S. Fell states that this published report is an attempt to give a word picture of the department activities, interesting and not tiresome. He succeeds notably, especially in showing the work of disease prevention, through the removal of the causative factors as carried on by his Bureau. (Apply to Dr. A. S. Fell, Bureau of Health, Trenton, New Jersey.)



Outline of Instruction, Police Training School, Wichita, Kansas, 1931.—205 pp. The outline of the curriculum of the Kansas Police School, sponsored by the Kansas League of Municipalities, covers a course meeting nine or ten sessions a day for a full week. It deals with subjects from abnormal psychology to weapons, including among others, traffic, arrest, identification, first aid, penology, narcotics, gambling, evidence, records, crime prevention and crime reports. (Apply to John G. Stutz, League of Kansas Municipalities, Lawrence, Kansas.)



Report on a Proposed Retirement Plan for the Employees of the City of Cincinnati.—Cincinnati Bureau of Governmental Research, 1931. 68 pp. **Proposed Ordinance to Establish a Retirement System for Employees of the City of Cincinnati.**—1931. 32 pp. George B. Buck, consulting actuary, prepared for the Bureau and City Manager Dykstra a municipal retirement system for Cincinnati employees. The main provisions are summarized and the benefits described in his report. Tables are given to show cost to the city and to the various classes of employees as well as the actuarial basis on which these cost

figures were prepared. The ordinance is based on the recommendation in the report. (Apply to Cincinnati Bureau of Governmental Research, Cincinnati, Ohio.)



Safety Code for Mechanical Refrigeration.—American Society of Refrigerating Engineers, 1931. 31 pp. The American Standards Association has approved this code as a reference manual for practical and adequate regulatory measures for the safe installation, operation and inspection of mechanical refrigeration systems or units. It is also sponsored by a number of manufacturers. The code is applicable to municipalities of any size and the Association will be glad to assist if local needs require its adaptation. (Apply to American Standards Association, 29 West 39th Street, New York City.)



The Reorganization of the Chattanooga Pension System.—Bureau of Governmental Research, Chamber of Commerce, Chattanooga, 1931. 22 pp. This study points out the weaknesses in the present pension system and suggests measures to prevent its collapse and establish it on a sound basis. Tables are given comparing the present law with earlier Chattanooga pension plans and the pension laws in effect in other cities or states. The procedure by which various cities which have had unsound systems have placed these on a sound actuarial basis is suggested. (Apply to Bureau of Governmental Research, Chamber of Commerce, Chattanooga, Tennessee.)



American Public Health Association Year Book, New York.—1931. 320 pp. This first year book gives information concerning the organization, activities and membership of the Association, but devotes most of its space to the reports of twenty-nine committees. Here is given briefly the current concerns of these important committees on significant phases of public health, some of which are: environmental sanitation, insects and rodents, disaster relief, water supply, waterways pollution, plumbing, sewage disposal, lead poisoning, milk supply and other food stuffs. (Apply to the American Public Health Association, 370 Seventh Avenue, New York City.)

NOTES AND EVENTS

EDITED BY H. W. DODDS

An Executive Council Established in Wisconsin.—A revealing manifestation of the political thinking of Governor Philip F. La Follette is found in his first message to the Wisconsin legislature (January 15, 1931). Here he points out the well-known inadequacy in that theory of American government that would isolate the executive from the legislative branch; then he warns against a full acceptance of the more recent drift toward extending arbitrary powers to the governor without setting up some compensating controls. "No one man has sufficient wisdom to diagnose the needs of the state. In the exercise of the extensive semi-judicial and semi-legislative powers necessarily given to administrative authorities, a continuing study of their trends and effects by both official and unofficial leadership is now essential." To meet this need in state government the governor urged the creation of an executive council. It would provide an opportunity for the continuous review of the activities of government, a safeguard against hasty, arbitrary and ill-informed developments of policy and an "opportunity for including on the executive council of spokesmen for agriculture, manufacture, commerce, finance, labor and similar basic interests in the state. . . . It is possible for us to inaugurate for Wisconsin the first steps toward a planned development, to be achieved by the free coöperation of individuals and groups with the government of the state."

These suggestions were embodied into law when S. B. No. 66, introduced by Thomas A. Duncan, the outstanding leader of the senate and the right-hand man of the governor, was favorably passed by the legislature. The act specifically provides for an executive council of five senators and five assemblymen named by and responsible to the legislature and of ten other citizens appointed by the governor without confirmation—all appointments to expire with the term of the governor under whom they were made. These members serve without compensation other than actual expenses. Meetings of the council shall be held on call of the governor, at any place within the state, as the governor may designate. Ten members shall constitute a quorum, and a

majority of a quorum shall have power to transact business. Specifically, its most important powers are: to advise the governor, to investigate any part of the state government, to make studies of governmental problems, to investigate the possibilities for consolidations in government that would make for increased efficiency and economy; to provide for office rooms for state officers, and to approve of all leases of quarters made by the director of purchases; to provide the procedure for purchasing supplies, materials, equipment and contractual services; to let commercial concessions in the capitol. The executive council has power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, and testimony. Furthermore, each state department or agency thereof is required to furnish information to the executive council on its request.

I asked Governor La Follette if the idea had been suggested to him by the legislative council recommended in the *Model State Constitution* of the National Municipal League. He shook his head in the negative; I then asked if the idea had come from Laski's proposal about advisory bodies surrounding the executive departments that he describes in his *Grammar of Politics*. The governor smiled and his eyes sparkled as he said, "I have never read it." The executive council is a product of his own political thinking—of his own interest in government. He considers it a very important one, and although no official appointments have yet been made (June 23) he put the plan into effect even before he was inaugurated. He had conferences with leaders and representatives of important economic groups. Among them were railroad presidents, two banking groups—the independents and the chain bankers, labor leaders—the Railway Brotherhood and the State Federation of Labor, and groups of industrial leaders. In preparing the executive budget he elected to have old members of the finance committee sit with him for consultation and advice. In the future the executive council will be present when he prepares the budget. Since he has been in office he has

continued his conferences with industrial leaders, legislative leaders and heads of executive departments. In the words of one observer close to the governor, "He is trying to focus the thinking resources of the state on the problems of the state." It is doubtless because of advanced work of this type carried on under the direction of the governor that the present session of the legislature will end this week (June 23) instead of in August or September—the dates when recent sessions have ended.

J. T. SALTER.

University of Wisconsin.

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Ohio Abandons the General Property Tax.—After over forty years of effort Ohio has finally abandoned the general property tax. In no state has this change been so bitterly contested. In the period since 1885 the question of abolishing the uniform rule was submitted to the voters of Ohio no less than eleven times, but not until 1929 was the necessary constitutional amendment secured. With the uniform rule eliminated from the constitution, it was evident that taxation would be the major problem before the 1931 legislature. When it came to selecting a definite substitute for the existing general property tax, however, wide differences of opinion were manifest at once. In general, the farm groups desired a state income tax, the proceeds of which would be turned over to the local units, while the manufacturing interests insisted upon a system of classified property taxes with low rates on equipment and intangibles. Though a large part of the legislature—perhaps the greater part—initially leaned toward an income tax, it was practically eliminated because Governor White pledged himself during the campaign to veto such a measure if presented. The choice was narrowed, therefore, to the classified property tax.

The measure enacted classifies property into a number of groups to be assessed at differing percentages of full value and taxed at varying rates. Real estate and most public utility personalty are to be listed at full value. Machinery and equipment used in agriculture, mining, and manufacture are to be assessed at 50 per cent of value and other taxable tangible personal property at 70 per cent. Motor vehicles are exempt entirely, the license rates being increased to balance the loss of revenue, and household furnishings are also exempt. The regular local tax rates will apply to both real estate and tangible personal property as so assessed. Intangibles

are divided into several groups taxable at different rates. Bank deposits are subjected to a levy of two mills to be collected directly from the bank. Investments are to be taxed at the rate of five per cent of the income yield if they produce income and at two mills upon market value if not income producing. Moneys and credits are taxed at three mills.

The administration of the new system of taxation will be highly centralized. In addition to the assessment of public utility property, which is already largely handled by the state, the tax commission will assess the personal property of all corporations and individuals listing in excess of \$5,000 of taxable property personal. In the case of investments, the taxpayer is given the option of filing a copy of his federal income tax return or of listing his securities and the income therefrom individually. The administrative burden imposed upon the tax commission is obviously very great. To meet its new responsibilities, the membership of the commission is increased from three to four and provision is made for a large expansion of personnel.

What the results of the new legislation will be is a matter of considerable speculation. Those responsible for formulating the plan do not claim any very considerable increase in revenue from the change—perhaps \$5,000,000 taking the state as a whole—but they do contend that it will reach a larger amount of intangibles and distribute the tax burden upon intangibles more equitably than has the general property tax. However, many fear the possibility of decreased revenue and consider the plan a makeshift pending the time when a state income tax system can be adopted.

R. C. ATKINSON.

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Governor's Suspension Power over Local Officials Nullified.—"Sorry, 'Charley.' I'm not going to get out unless the courts make me." With this statement Treasurer J. M. Weston of Lee County, Virginia, whom the state auditor of public accounts, along with private accountants, had shown to be short in his accounts approximately \$92,000, announced his decision to fight the right of Governor John Garland Pollard to suspend him from office. Thus was Charles D. Fugate, the governor's appointee to fill the vacancy which he believed to exist after he had suspended Treasurer Weston, greeted when he appeared to take over the county treasurer's office.

In March, 1931, the final round was fought when the Virginia Supreme Court of Appeals handed down a decision upholding the treasurer and declaring unconstitutional that section of the tax code of Virginia which had granted the governor the right to remove from office, for proper cause, any city or county treasurer, clerk, sheriff, or other officer charged with the collection of any of the public revenues.

In the opinion of the majority of the court, for the decision was reached by a 4 to 3 vote, it was held that this act of the legislature was unconstitutional because it gave to the governor the right to determine whether there was cause for suspension, a matter essentially judicial which should be reserved for the courts. In part the court said, "To remove a man from office because of embezzlement, without giving him a day in court, runs counter to those fundamental instincts of fair dealing which lie at the base of all government."

Especially striking, however, was the severity of the language of the minority report, written by Chief Justice Prentis. He charged the majority with having based its decision on . . . "a fanciful construction of the constitution which has been frequently repudiated" and with thus having refused "to cooperate with the general assembly and the executive, and so defeat their commendable efforts to enforce this and other statutes."

At present the case of Treasurer J. M. Weston lies in the circuit court of Lee County. Ouster proceedings have been instituted. Experience with such proceedings in Virginia in the past has been discouraging. It was to take such matters out of the hands of friendly members of the erring official's own courthouse clique that the power to suspend county constitutional officers was originally given to the governor by this act of the general assembly. It is hardly possible that with the necessary delays in the determination of this case any action will be had before the expiration of Mr. Weston's term of office in November.

At the next session of the general assembly it seems probable the act will be amended to provide for the suspension by the governor subject to appeal to the courts instead of the legislature as the voided act provided. For the present the right of the governor to suspend a county constitutional officer charged with wrongdoing is denied. A county treasurer who has been shown to be in default thousands of dollars continues to

hold office and in the meantime collects additional public funds totaling more than \$850,000. Interest on the Lee County bonds is in default many months and the governor has been informed that the bondholders threaten legal action. And, finally, the credit of all Virginia counties is affected.

JOHN J. CORSON, 3RD.

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Budgetary Developments in Los Angeles.—

The most encouraging aspect of municipal administration in Los Angeles is the bureau of budget and efficiency, which is headed by Roy A. Knox. The charter provides (sec. 399) that "The Director of the Bureau of Budget and Efficiency shall assist the Mayor and Council in the preparation of the annual budget . . ." Largely as a result of this provision the Los Angeles budget bureau is more or less singular; it is equally the instrumentality of the mayor and of the council. In the fullest sense, it is a "staff" agency. So far it has succeeded in serving two masters in admirable fashion.

In 1927 an amendment was passed which provides that, "For the financial support of the bureau of budget and efficiency there is hereby appropriated an annual sum of not less than one-fourth of one cent on each one hundred dollars of the assessed value of all taxable property in the city." The proposed budget for 1931-32 is \$55,704, the director's salary being \$6,600, and that of the lowest paid investigator \$2,100. There are now thirteen employees of the bureau, exclusive of secretarial assistance. The success of the bureau of budget and efficiency is due principally to the superior calibre of personnel it has been able to secure. Six of the eleven investigators expect to receive the master's degree within a short time for research they are doing in public administration!

The confidence the bureau of budget and efficiency commands is illustrated by the budget which will soon be voted by the city council. The departmental requests exceeded \$38,000,000, but Director Knox recommended a budget of about \$25,000,000. After announcing publicly that this amount would have to be reduced, Mayor Porter eventually accepted a budget total which was almost identical to the bureau's proposal.

One of the most distinctive features of the Los Angeles budget plan is the unusual power granted the mayor by a charter amendment passed in November, 1930. The amendment was first suggested by the bureau of budget and

efficiency, which was concerned about what would happen if the mayor should veto the budget in whole or in part and then the council should fail to muster a two-thirds vote in order to put a budget into effect by July 1. This exigency was made a real threat because of the recognized power of the council to place any fraction of the mayor's recommended total into an "Unappropriated Balance." Between 1924 and 1930 this balance has been increased from approximately \$3,800,000 to around \$7,800,000. Its most important use is to meet the cash requirements of the city for the portion of the ensuing fiscal year prior to the receipt of taxes. Before the adoption of charter amendment 1-A, which has become section 353 of the city charter, in case the council failed to pass a budget, there would have been no budget whatever in effect. The new provision states that, "In case the Council shall fail to adopt a budget and levy a rate of taxation at the time and in the manner provided by this Charter, then a budget as prepared by the Mayor for the expenses of conducting the business of the city government shall be in effect," and after the controller has added a sum sufficient to meet the interest and sinking fund, and has fixed a rate of taxation not exceeding the charter limits, "said tax rate shall thereupon have full force and effect as if said appropriations had been made and said rate of taxation fixed by action of the Council and approved by the Mayor, as hereinbefore provided."

It is apparent that the voters of Los Angeles have taken another step in the process of making a "strong" mayor. The councilmanic election returns of the June 2 ballot indicate that ten of the fifteen members of the council will be opposed to the present incumbent of the mayor's office. It may be that Los Angeles will have need of such safety devices as the one described above at some future time.

MARSHALL E. DIMOCK.

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State Reorganization in North Carolina.—The North Carolina General Assembly, which adjourned in May after the longest session on record, again demonstrated that the time is not yet ripe for adoption of a general administrative reorganization program in that state. As one writer has phrased it, "Conservatism of the kind which has caused North Carolina to be the only state in the Union to deny its governor any veto power and one of the few which does not permit a governor to succeed himself, has again stood

like a rock against all attempts to introduce the short ballot." This reluctance on the part of the legislature to change the system by which the people elect directly thirteen state executive and administrative offices was only too well realized by the present governor, O. Max Gardner, who was the leading figure in the reorganization movement.

Realizing that the basis for any legislation necessitated the prosecution of a governmental survey, Governor Gardner last summer employed the Institute for Government Research to conduct a survey of state and local government. The report, commonly referred to as the Brookings report, was presented in December and immediately became the subject of considerable attention. In general the report recommended as follows: (1) Amendment of the constitution to provide for the election of but three officers—governor, lieutenant governor, and state auditor; (2) Grouping of related services into a small number of administrative departments; (3) Creation of a service of general administration directly under the governor in which all the purely staff or institutional activities would be centralized.

The report had been in the hands of the governor but a short time before he extracted from it a series of recommendations which he proposed to present to the legislature. These included among others the creation of a central purchasing agency, the consolidation of the University of North Carolina, State College, and North Carolina College for Women, the reorganization of the health, highway, and labor departments, and the establishment of a modified merit system. In his message in January and in numerous public statements, he placed himself in favor of these particular measures. In spite of considerable opposition the administration was successful in securing adoption of practically every one of the recommended proposals. This was rather remarkable in the light of the historical fact that few governors of North Carolina have been successful with their second legislatures.

Briefly, the laws enacted as a result of the reorganization program were:

1. Creation of central purchasing agency under the direction of the governor;
2. Creation of a personnel agency under the direction of the governor;
3. Minor reorganization of the state board of health to provide that the selection of the state health officer should be approved by the governor;

4. Transfer of banking supervision from the corporation commission to a separate banking department;
5. Consolidation of all labor activities under a department of labor (the move to make the office of the commissioner of labor appointive, however, failed);
6. Consolidation of the University, State College, and North Carolina College for Women under one board of trustees;
7. Creation of a constitutional commission for the purpose of working out amendments to the present constitution;
8. Reorganization of the state highway commission;
9. Creation of a state agency with drastic powers over the fiscal affairs of local governments.

In view of the taxation and school issues which dominated during the whole session, close students and friends of the reorganization movement are fairly well satisfied with the results achieved. They at least represent an opening wedge for future reorganization proposals and Governor Gardner has been given great credit for his fight in the face of many obstacles—both political and economic. With taxation and its allied problems occupying major attention, administrative reorganization was forced to take the back seat, and any additional consolidation legislation could hardly have been expected to materialize at this session.

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Committee on Uniform Street Sanitation Records Makes Second Installation.—The Committee on Uniform Street Sanitation Records has just completed in Kenosha, Wisconsin, the second of its demonstration installations which it is making in various cities throughout the country. The purpose of this installation is to demonstrate how the standards and records proposed by the committee can be applied in cities between 25,000 and 500,000 inhabitants. A complete manual of this Kenosha installation, together with the forms employed, has been distributed to sixteen hundred city officials throughout the country with the recommendation that they adopt all appropriate portions in their respective cities.

Kenosha was selected as the demonstration city in the 50,000 class because of the splendid administrative methods employed by P. J.

Hurtgen, director of public works, and William E. O'Brien, city manager. The installation staff found the director of finance, H. C. Laughlin, to be maintaining one of the best, as well as one of the simplest, general accounting systems in the country and already submitting to department heads monthly statements which show the exact condition of each appropriation. Similarly, the purchasing system and central stores control, operated by the purchasing agent, J. V. Duffy, was found to be a model one and required no changes whatever in the installation. Kenosha also manages all of its equipment from a central garage which especially aided in providing an effective system of equipment records.

The installation required approximately one month of the time of the committee's staff, consisting of Donald C. Stone and G. A. Moe, working in conjunction with the several city officials. During this period revisions were made in the daily field reports, equipment records, the cost records, complaint reports, and monthly administrative statements, all of which resulted in a smoothly operating and well-balanced system.

The purpose and scope of this installation in Kenosha is indicated by the introductory section to the instructions prepared for the officials. It states in part:

The main objective of the records and costs system is to provide the several public works officials and the city manager, with a greater control over street sanitation and other public works activities. The system provides a regular method for compiling and analyzing the amount of work done and its costs. This will allow these officials to better plan the work, to prepare a sound budget, and to determine the extent to which work performed conforms with the work planned. They will be able to determine which methods or equipment are the most effective or the cheapest. With these facilities at hand, the city's activities can be conducted on a more systematic basis, thereby producing more and better work for the money spent.

Certain standards of work are necessary in any undertaking to serve as a goal or guide if maximum efficiency is to result. As a guide to public works officials in Kenosha, certain standards have therefore been established for each kind of work, and of the unit costs for doing this work. These standards take the form of a predetermined amount of work which is necessary to provide satisfactory service for each operation, the use of unit cost standards as a goal to be attained in actual unit costs, and other measures such as units of work per man hour, units of work per equipment hour, etc. An analysis of the present costs has made it possible to set up a unit cost standard for many of the public works opera-

tions, such as refuse removal, dump maintenance, machine sweeping, and the like. These standards are indispensable in formulating a work program and budget for the public works department.

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Municipal Prisons No Credit to America.—In the realm of correctional institutions, workhouses and jails, our American cities are still in the dark ages. Many municipalities have attempted, with more or less satisfactory results, to establish prison or workhouse farms. In the majority of cases, we are still groping for an adequate program. Short sentences, and, in some cases, political interference leave very little opportunity for satisfactory treatment of inmates. Why not a more thorough classification of municipal prisoners with work and social programs suited for the various groups?

The repeater in a municipal workhouse is generally sentenced for a short term each time he appears, and is very possibly in need of mental or physical treatment which no workhouse can provide. Among other groups, much crime prevention should result from considering the prisoner as one who needs treatment and not only as one from whom society must be protected. It is barely possible that he needs protection from society and social forces.

Slowly, we are developing probation divisions and coming to understand the value of newer research methods in the fields of correction and of mental hygiene. The day may come when even the more satisfactory prison farm will be considered wholly unnecessary. Municipal welfare departments must be alive to these newer

developments as programs for improvements are considered.

It is in the present non-institutional field where municipal public welfare will come increasingly to assume larger responsibilities. As all social workers are aware, the trend of the past few years has been to place more of the burden of care for dependency and of relief directly upon public bodies. The present depression has intensified this effort. Cities, which have depended upon private agencies to meet the social needs of the community, have been compelled to resort to tax funds to meet the imperative needs of the time. It will be a difficult matter to shift the burden back to private social agencies, and municipalities must build a force to continue to carry it. (*Excerpt from address by Fred K. Hoehler before American Association of Public Welfare Officials.*)

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Speakers' Club of Los Angeles Organized.—

A novel organization has been formed in Los Angeles known as the Speakers' Club for the purpose of disseminating information respecting the administration of government. To be eligible for membership a person must hold an administrative post in federal, state or local government, or be engaged in an academic or research pursuit concerning governmental affairs. Another purpose is to develop in the members the art of public speaking. At each meeting eight speeches are made by members and each speech and speaker is criticized by some other member of the club and by a critic from the University of Southern California trained in the principles of public speaking.